

HISTORICAL MATERIALISM 15

# Impersonal Power

*History and Theory  
of the Bourgeois State*

Heide Gerstenberger

*Translated by David Fernbach*

B R I L L

# Impersonal Power

# Historical Materialism Book Series

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of the Bourgeois State

*By*  
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BRILL

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## Preface to the English Edition

The 'bourgeois state' as a political form is a particular development of the structural type of the modern nation-state. This particular form can be explained in terms of its specific prehistory, and such is the central thesis of the present work. Since this prehistory was peculiar to Europe – and in a derivative form to the colonies of European settlement – it was only here that the 'bourgeois state' in this sense arose.

In the course of the nineteenth century, and still more in the twentieth, key elements of this political form were exported across the world. Wherever people successfully emancipated themselves from foreign rule, wherever they agreed to live together in a sizeable political unity, they could only hope to find acceptance on the world stage if they established themselves as a politically constituted 'nation'. 'International law' was and is the law of states. Today there is scarcely a remaining corner of the globe that does not belong to a nation-state. And not only has the political form of 'nation-state' extended worldwide, in many of the more recently and even very recently established nation-states political institutions and legal systems have been introduced that were developed in the bourgeois states. Even so, however, statehood takes very different forms, and there is no sign that these differences will disappear in a historically foreseeable time.

Just like the development of statehood, so the development of capitalism was long assumed to always follow a previously established pattern, as soon as the temporary 'obstacles' that still existed, such as underdevelopment or state socialism, were finally removed. In the meantime, this economic order has established itself almost throughout the world, and it has become apparent that capitalism too has many guises. This gives new actuality to the question of the causes of the specific forms of modern statehood, and along with it the specific processes of capitalist development. The present study, however, does not focus on the comparison between bourgeois and other modern

states, but rather on the causes of the original constitution of bourgeois state power. The historical dynamic for this – to summarise as briefly as possible the results of a far-reaching comparative analysis – arose from competition for power, from attempts at social advance, and from strategies to retain power once acquired. Not everyone living in the towns and villages of the Middle Ages and the early-modern era were involved in this competition, but they were all affected by it in one way or another. The conditions under which they lived their everyday life were marked by lords, and by those who sought to be lords.

Just as there was armed appropriation and the exploitation of peasants in other parts of the world – the particular similarities between European and Japanese feudalism have been often noted –, so this competition for possession of power was in no way a European peculiarity. In those realms where the first nation-states later arose, however, this took place in specific historical conditions, such as the effect of an early – if never complete – separation between religious and secular power, the development of towns into legal entities, the commercialisation of rule, and those struggles over correct belief that culminated in the establishment of different Christian denominations. All these developments were found in those realms where the first historical forms of modern state power would subsequently arise. In all these realms there was a development of the *'ancien-régime'* structural type, and along with it the historical preconditions for the constitution of a bourgeois form of state power. In different realms, however, the particular distribution of power gave rise to specific conditions for the competition for power and appropriation, even for the struggles over correct belief and thus access to the means of salvation.

The extensive historical analysis that underlies this explanatory approach was provoked by those theoretical concepts, with provenance in both Marxism and modernisation theory, that were prominent in the social sciences and historical scholarship in the 1970s and 1980s. I confronted these with research findings for a large number of particular developments, and found them unsatisfactory inasmuch as in all these approaches – despite the admirable care that was taken in detail – historical research served essentially to illustrate a structural logic whose validity had already been decided in advance. This kind of critique was already widespread among historians in the 1980s, though not yet among social scientists. Most historians decided as a result to

move away from concern with the 'big questions' of historical development, and pay attention instead to local developments, the jumble of contradictions, contingent processes and changing discourses. Presumably, approaches that rejected this 'revisionist' turn were seen by representatives of this new 'mainstream' as themselves the effects of structural-logical thinking. My own study, however, is based on the results of these labours.

The first edition of this book was published in 1990. Since then a large number of historical works have appeared in which questions are tackled that I had also raised here. Many points of detail could thus now be formulated differently. On the other hand, some of my conclusions have been better established by recent research findings than they were in the 1980s. And as far as I am aware, subsequent research has not led to any fundamental criticism of the explanatory approach followed here.

This applies also to the theoretical challenge that Benno Teschke has offered,<sup>1</sup> insisting as he does that the emergence of modern states must be explained in terms of the emergence of an international system of European states. And indeed, my study does not pay sufficient attention to the involvement of each particular nation-state in course of formation in a system of international politics and international economic strategies. Yet Teschke's theoretical concepts – anticipated in part already by Justin Rosenberg<sup>2</sup> – only bear to a limited extent on the explanatory approach followed here. Internal power struggles and changes cannot be explained simply by pointing to relations of international competition. Key elements of the '*ancien-régime*' structural type, and hence of the preconditions for the development of the bourgeois form of modern state power, precisely did not arise out of the dynamic of these relations. The struggle over correct belief, for example, the emergence of the concept of interest, or the development of a critical public opinion, all still require a close examination of internal developments – 'international' influences notwithstanding. Fifteen years later, I would indeed want to analyse the international context more closely, but I have refrained from extending in this way a book that is already very long.

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<sup>1</sup> Teschke 2004.

<sup>2</sup> Rosenberg 1994.

There is one respect, however, in which I have corrected my ideas. Though I continue the comparison between the historical lines of development in England and France only until the final triumph of 'bourgeois state power' as a political form, the first edition implicitly assumed that the historically earliest modern states could continue indefinitely to be characterised as 'bourgeois states'. This is no longer my view, and I have rather reached the conclusion that the characterisation of the first modern states as 'bourgeois' only makes sense for a comparatively limited timeframe. Some of the discussion in the final section of the book (Part Five, 3) thus departs from the first edition in this respect. In the first chapter, too, I have made a few changes. But I have resisted the temptation to discuss more recent explanatory approaches in further detail.

Heide Gerstenberger  
Bremen, 2005

## **Part One**

### **The Rise of Bourgeois States: Preconditions for an Explanation**



## I. Miracles, for example

It is reported of some of the medieval kings that they healed scrofula. Laying hands on patients with this disease counted among the duties and mercies of royal rule in both England and France, at least from the twelfth century. Though the healing of scrofula had long ceased to be the custom in England, it was still practised in France in the seventeenth and eighteenth centuries, and even in the nineteenth under the restored Bourbon monarchy, as a way of giving the royal power additional justification. Since this rule was the personal property of the kings, they could perform the occasional miracle. In the process of depersonalisation of rule, the loss of the royal ability to work miracles seems only marginal – yet it is not quite incidental, as it shows how differences between forms of rule are expressed not least in different behavioural imperatives for the rulers. If these distinctions are ignored, then the healing of scrofula has to be explained simply in terms of the pronounced psychosomatic character of skin diseases, or treated as a kind of medieval legitimisation strategy. Yet this last only makes sense if an analytical distinction can be made between the objective foundation of rule and its practice. As long as rule exists only *in* its practice, concepts like ‘legitimation’ and ‘ideology’ have no object. Similar reservations apply to the frequently used notion of ‘personal right’. This suggests the existence of an objectified structure of



law outside of the practice of rule. In fact, however, the causes of this 'disembedding' of rule and law are in need of analysis. In this essay we shall therefore speak not of power based on personal right, but on personal rule as such.

Our knowledge of developed forms of modern state power, along with the scientific unveiling of many miracles and terrors, marks our analytical perspective on historically prior forms of life, and indeed makes depiction of the peculiarities of these forms systematically possible for the first time. But this does not relieve us of the task of taking cognisance first of all of the great differences in content between the notions of earlier times and our present scientific concepts,<sup>1</sup> in order to analyse the historical processes that underlie these distinctions. If previous forms of existence are tackled immediately with modern concepts, analysis of processes of their historical constitution is spoiled from the start. There are numerous examples of such neglect, especially marked in the comprehensive work of Michael Mann. He describes historical processes with impressive fullness, yet his research strategy is completely unhistorical, since he forces them all into the Procrustean bed of 'IEMP', the relation between 'ideological, economic, military and political relationships',<sup>2</sup> assuming that this has a transhistorical application despite historical variations in the internal connections. For him, as a consequence, there was already a 'state' in prehistoric times.<sup>3</sup> Similar arguments are put forward by many Marxists. If precapitalist relations of production are characterised by the fact that the surplus product is extracted by 'extra-economic' force, this does indeed indicate a historical particularity, but it already anticipates conceptually the separation of market from power. Though this does not completely negate any possibility of a causal analysis of this process, it does considerably restrict it. The same goes for the comprehensive assignment of religion to the realm of the 'superstructure'. If we elide the difference between an era when the church had the authority to define 'good order' and defended this monopoly against actual and potential attacks, and the historical development that set in with the Reformation, then important causes of the development of modern state power are projected back into a premodern age. The common thread of the

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<sup>1</sup> Koselleck 1979, pp. 107–30.

<sup>2</sup> Mann 1986, Volume 1, p. 2.

<sup>3</sup> Mann 1986, Volume 1, p. 37.

research programme developed in this essay can be initially characterised as the diametrical opposite of such kinds of unhistorical approach.

Many believe that the procedure recommended can already be found in Max Weber. And indeed, Weber's sociology of power does contain many passages presenting basic categories, structural forms and types. But anyone who uses these as a guide for their historical research will only find in Max Weber – to use an expression of Adorno's – what is already there in Baedeker.<sup>4</sup>

## 2. States in general, 'bourgeois' states in particular

The attempt to develop a theory of '*the state*' that could be applied indifferently to the 'Aztec state', the 'Pharaonic state', the 'city-state of antiquity' or the 'national state of modern times' unites such different authors as Maurice Godelier, Frederick Engels, V.I. Lenin, Max Weber, David Easton and to some extent, even Charles Tilly. Engels and Lenin stress two things: the coercive nature of the state and its character as an instrument used to defend existing economic and political power. Easton's systems-theory approach is, in a certain sense, at the other end of the scale. He holds it completely impossible to develop a general definition of 'the state' that can satisfy theoretical demands,<sup>5</sup> and instead supplies a general definition of past and present 'political systems'.<sup>6</sup> The transhistorical characteristic of these is alleged to be the authoritative allocation of the dominant values of a régime.<sup>7</sup> He does not assume here that all members of the system share these values and strive for their realisation, but simply that the values are upheld by 'politically effective' members and are not decidedly opposed by others, so that they set certain limits to the everyday course of political business.<sup>8</sup> The coercive character of the state is here, as it were, toned down by systems theory. Most general definitions of 'the state' lie somewhere between the two poles. Maurice Godelier, for example, summarises the result of ethnological research by saying that the establishment of states displays a unity of organisations of power and

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<sup>4</sup> Adorno 1968, p. 201.

<sup>5</sup> Easton 1979, p. 113.

<sup>6</sup> Easton 1979, p. 15.

<sup>7</sup> Easton 1979, pp. 129 ff.

<sup>8</sup> Easton 1979, p. 198.

community, and that every state organisation has the need for legitimisation.<sup>9</sup> This is very similar in content to the much more well-known general definition of the 'state' by Max Weber. For Weber, however, any 'compulsory political organisation' should be described as a 'state' 'insofar as its administrative staff successfully uphold the claim to the *monopoly of legitimate* use of physical force in the enforcement of its orders',<sup>10</sup> showing that Weber is quite conscious of the fact that his general definition of the state is oriented to its 'complete development' as the modern state.<sup>11</sup> Charles Tilly, for his part, proposes that the concentration of the most important means of compulsion that are available in a relatively large territory should be described as a 'government', with the designation 'state' being reserved to those governments that do not fall under the jurisdiction of another government, and are recognised by other governments in a similar position.<sup>12</sup> This is formulated in transhistorical terms, yet it is a situation that only makes sense for the world of states after 1648.

Subdivisions of these general definitions of 'the state' have also been proposed. These are generally composed from summarising particular salient features. The 'city-state of antiquity' thus has a particular character within the state in general, likewise the 'absolutist state' or S.N. Eisenstadt's conceptual types – at variance from current subdivisions – of 'traditional-bureaucratic' or 'imperial-feudal' states.<sup>13</sup> On occasion, a subdivision firmly anchored in general usage is criticised by scholarship, and the attempt made to install a new one in its place. Thus, among specialists in the age in question, the 'absolutist state' has long fallen into discredit, since the concept suggests the misunderstanding that the general regulatory competence claimed by the princes actually corresponded to their ability to pursue their policy at the regional and local levels. Many scholars have consequently now replaced the 'absolutist state' by the 'state of the early modern age'. This type too contains, besides its imprecise reference to a historical period, a compilation of salient features. Corresponding typologies, if with differing degrees of precision, are also present in the concepts of 'nation-state' and 'modern state'. As a general rule, the

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<sup>9</sup> Godelier 1981, pp. 21–6.

<sup>10</sup> Weber 1968, p. 54; his emphasis.

<sup>11</sup> Weber 1968, pp. 54 ff.

<sup>12</sup> Tilly 1999, p. 252.

<sup>13</sup> Eisenstadt 1981, pp. 36–74.

concept of 'modern state' is used in conjunction with the theoretical concept of evolutionary processes of rationalisation. The emergence of 'modern states' is thus, on the one hand, the result of the centralisation of means of violence, and on the other hand the process of a steady addition of particular 'modern' elements to premodern states. No kind of structural revolution is involved.

The concept of 'bourgeois state', on the other hand, implies an idea of 'bourgeois revolution'. This means nothing more – though also nothing less – than the assertion that the emergence of bourgeois state power does not simply involve a change in organisational structures or modes of behaviour in the exercise of 'state' power, but the creation from scratch of a public instance. It is only in this way that 'state' and 'society' are constituted as separate spheres. The theoretical notion of a separation of state and society is developed in a similar way by both Hegel and Marx, though differently founded in each case. Both agree that the structural development referred to forms the precondition for a state in the true sense of the term to exist. They have been frequently and quite fundamentally misunderstood here. Most commonly, it is assumed that the separation of state and society asserts something about the separation of spheres of competence. This leads on to maintaining that the increase of state intervention in economic processes, and social processes in general, has rendered the theoretical notion of separate spheres historically obsolete. This kind of interpretation fails to see the theoretical content of the dualism of state and society. It is neither the extent nor the form of state *influence* on society that is at issue here, nor again the emergence of specific contents of politics. Ernst Forsthoff, one of the few recent as well as decidedly anti-Marxist theorists who have taken over this concept, accordingly describes the separation of politics and economics as the possibility of a social order 'in which inequality and freedom are appropriately combined'.<sup>14</sup>

### 3. Examples of explanatory approaches

The theoretical concept pursued in this work developed out of a critique of explanatory approaches that saw historical processes in terms of a transhistorically effective dynamic. Wherever this is the case, without the scientific evidence for this effectiveness being produced, we have no longer historical

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<sup>14</sup> Forsthoff 1971, pp. 21–2.

analysis but rather a philosophy of history, and in many cases in fact only a structural functionalism with little theoretical backing. This is the case either when the explanatory approach in question leaves no room for the contingencies that result from social practice, or alternatively when – as already briefly indicated above – a structural dynamic that arose only after the constitution of separate spheres of politics and economics, and the actual establishment of capitalist relations of production, is projected back onto earlier conditions. The problems of arguments of this kind will be discussed below in relation to a few selected examples.

*Productive forces and modes of production*

Arguments of a structural-functionalist kind are nowhere more clearly pronounced than in the notion of a transhistorically effective dynamic of development of the productive forces, leading to periodic revolutionising of the relations of production, which counted among the dogmatic theorems of the Second International. The political basis for this explanatory grid is today outdated, yet because it has decisively influenced the concept of ‘bourgeois revolution’ upheld by many Marxists, and there is still ongoing debate over this concept, it is necessary to point out at least its fundamental mistakes.

Dogmatised ‘historical materialism’ sees the determining dynamic of social change in a tendency to the development of productivity. If existing social, political, cultural and religious forms place limits on the employment of more advanced productive forces, then this provokes a change in these and their eventual replacement. A revolutionary process is set in motion. In the course of this, the bearers of world-historical progress take power away from the previously dominant forces. The bearing groups (classes) of such changes act with will and consciousness, but they are successful only because the overall context of a contradiction between developing productive forces and relations of production presses for change. The question as to the historical causes for the inauguration of a new historical formation, in this universalistic conception of history, has thus been solved once and for all – if only at a general level –, as has that of the causes of new forms of power organisation, these latter being taken – their historical particularities apart – as determined by the mode of production.

If this transhistorically effective dynamic of a development in the productive forces is maintained, the anchoring of this dynamic must be demonstrated in all social formations. Marx himself explained the necessity of replacing human labour with the development of (more advanced) capital goods in terms of the mechanism of competition, since individual capitals can only maintain themselves in a competitive situation if they secure advantages (in *Capital*, Volume One, especially Part 4). This line of argument has become a commonplace of economic textbooks, even if the reference is not to Marx but to Joseph Schumpeter. It does not however support the thesis of the transhistorical dynamic of the development of productive forces. For, if the competitive mechanism only became a guiding instrument of the economy under capitalism, then the scientific explanation for the necessary development of the productive forces only applies to this economic form. In so far as a scientific explanation for the development of productive forces can be found for previous historical epochs and particular regions – for instance in the competitive structure of armed appropriation –, this in no way justifies pressing developments of this kind into a schema of ‘historical laws of development’ that are invariant in time and space.

What has stood at the heart of the debate over the transition from feudalism to capitalism, kindled first of all by Maurice Dobb in 1946 with his *Studies in the Development of Capitalism*, is not a world-historical dynamic of development of the productive forces, but, rather, the theoretical concept of mode of production as a historically specific unity of economic activity and power. The analytical concept of mode of production expresses an advance in knowledge that only became possible once human economic activity was no longer ‘embedded’ (Polanyi) in its social context. On this basis, we can no longer consider non-capitalist societies *as if* the sphere of material reproduction was also separate here from religious practice, from the social determination of kinship relations, from the sanctioning of the social situation by power and from appropriation by way of power. This perspective makes it possible to grasp the connections of material reproduction along with their crisis-prone structure. But as long as this mental abstraction from the historical forms of social practice is misunderstood as the discovery of an actual developmental dynamic of these societies – and this misunderstanding characterises Marxist interpretations that operate with the concept of mode of production –,

structural features and developmental preconditions of capitalist societies are transposed onto non-capitalist ones.

In recent decades, Marxists (French in particular) have used the notion of social formation to analyse the totality of social structural connections. They see the characteristic features of this as resulting from the articulation of one or – typically – several modes of production. Following from the theoretical conceptions of Louis Althusser and Nicos Poulantzas, modes of production are seen as the *theoretical* expression of a context of social relations that are all determined by a particular social form of production. This theoretical notion of social formation as a combination of modes of production made it possible for example to counter the objections of non-Marxist historians to the characterisation of French society in the eighteenth century as feudal. This society was now described as a specific stage of development of a social formation, whose specific character resulted from the simultaneous existence of the feudal and capitalist modes of production.<sup>15</sup> To explain the dynamic leading to the situation in which capitalist social relations developed alongside the persistence of feudal relations, this structuralism was forced to present capitalism as a structural moment always already existing within feudal relations. But this not only left unexplained the rise of capitalist relations, but also why, once arisen, they expanded to social dominance. The dynamic of developed capitalist relations, however, leading to ever more previously non-capitalised spheres being transformed, has a specific historical precondition: the already established dominance of capitalist relations. So long as this does not yet exist, both the expansion of commodity production and especially the expanding transformation of labour-power into a commodity must be explained in historically specific terms. The assumption that particular capitalist elements existed from the start in connection with a capitalist mode of production is no more than historical determinism. It is just that the teleology is no longer readily apparent in the forms of appearance of social relations, being rather embedded in concealed structural connections and immunised in this way against empirical objections. Historical analysis however remains excluded: the question of the causes of a fundamental transformation of structural connections is taken as answered before it is even posed.

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<sup>15</sup> Robin 1973.

*The international dynamic of capitalism*

For Immanuel Wallerstein, the emergence of the modern European state is an effect of the extension of the capitalist world-system. This system arose in the second half of the sixteenth century, by a dynamic of expansion proceeding from Europe.<sup>16</sup> It led to the constitution of a hierarchically structured international division of labour, which has since been the basis of the 'unequal exchange' between the centre, the semi-periphery and the periphery of the world-system. At the beginning, there were still different relations of production to be found in the capitalist world-system. The internal dynamic of this, however, eventually led to the dominance of wage-labour and mass production. The function of pursuing and securing this dynamic fell to the state apparatuses and continues to do so. From the end of the sixteenth century – in Portugal already in the fifteenth<sup>17</sup> – 'the state' appeared in place of the historically prior power of princes. According to Wallerstein, this change came about because 'the concentration of capital in the core zones created both the fiscal base and the political motivation to create relatively strong state-machineries, among whose many capacities was that of ensuring that the state machineries of peripheral zones became or remained relatively weaker'.<sup>18</sup> Two further assumptions are made here: on the one hand, that 'all chains of commodities that had any importance' outspread the state limits already at the start of the capitalist world-system, and on the other hand, that there was a political arena 'consisting [only] ostensibly of separate sovereign states'.<sup>19</sup>

Plausible as Wallerstein's theory has seemed to many seeking an explanation for the persistence of underdevelopment, its historical and theoretical basis is convincing only up to a certain point. We cannot embark here on a critique of the historical process that Wallerstein presents, but simply deal with the correspondence he assumes between the development of capitalism and the constitution of modern state power.

Wallerstein knows very well that overseas trade in the fifteenth, sixteenth and even seventeenth century was still conducted by privileged trading companies. This however does not prevent him from characterising their form of

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<sup>16</sup> Wallerstein 1974, p. 338.

<sup>17</sup> Wallerstein 1974, p. 51.

<sup>18</sup> Wallerstein 1984, p. 32.

<sup>19</sup> Wallerstein 1984, p. 31.



accumulation as capitalist. And since he is of the view that it is nonsense to propose the simultaneous existence of different economic forms, the expansion of overseas trade marks for him the beginning of capitalism. Certainly, the 'bourgeoisie' – apart from internationally active bankers – had not yet appeared as an international class, but it was already able to see itself as such.<sup>20</sup>

The assumption that merchants conducting overseas trade, if not yet capitalists in the modern sense of the term, were at least already capitalists *in spe*, is not one made only by Wallerstein. We find it also in many other explanatory approaches. Its fundamental weakness lies in its confusion between merchant's capital and capitalist commercial capital, in its limitation of the concept of capitalism to circulation, and its failure to take into consideration the distinctions between personal rule and a public state power separate from society. In our present context, it is particularly important that the merchant's capital of the sixteenth and seventeenth centuries, as against the commercial capital of developed capitalism, acted in a world of monopolies (privileges), thus a world of limited competition. Privileges were granted by rulers, who extracted as high a price for these as they could. In no way were all the burghers involved in overseas trade aware of the geographical extension of their radius of action. Only in the first half of the seventeenth century did an orientation of this kind begin to be noticeable among London merchants, after developing already for a number of decades.<sup>21</sup> The 'logic' of economic activity of the burghers of this time did not demand above all else expansion, but rather a defence of their privileges against all potential newcomers; the 'logic' of their social existence was directed at rising in the society in which they already lived. For many of them, this meant striving for ascent into the nobility, for themselves or at least for their descendants. One of the key preconditions for such ascent was – depending on the realm in question – purchase of a landed estate and/or an office property, less indeed as an economic investment than as an investment in an anticipated future social status. If sixteenth-century burghers are generally ascribed motivations that developed only after the abolition of estate rule and a far-reaching abolition of the limitations that power placed on competition, behavioural imperatives of an

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<sup>20</sup> Wallerstein 1974, p. 352.

<sup>21</sup> R. Brenner 1972; K.R. Andrews 1984, introduction.

achieved market economy are assumed already for historical situations in which Polanyi's 'great transformation' had not yet taken place. Even if it is possible to see with hindsight that overseas trade and monetarisation were structural preconditions for later developments, it is nonetheless mistaken to describe their emergence as an 'apprenticeship' in modern capitalism. Still less can the strengthening of dynastic ruling power (by way of successful centralisation, the extraction of taxes and the build-up of military strength) be analysed as a simple function of economic imperatives, as Wallerstein explains with the example of Portugal, where the state of the early-modern age, in his view, had become the most important 'entrepreneur' in the country.<sup>22</sup> To put it another way, the development of forms of rule is always connected with the development of structures of appropriation, but this does not make it a mere effect of this development.

As against Wallerstein, Justin Rosenberg does not locate the fundamental structural difference between feudalism and capitalism in the dynamic of merchant's capital. In his critique of the assumption (fundamental to the so-called realist school in international-relations theory) that historical development is the result of relations between separate sovereign states, Rosenberg focuses on the fundamental difference between the geopolitical system of feudalism and the geopolitics of capitalism. A militarily based policy of 'balance of power' would have been quite inconceivable under feudalism, 'for war and political expansion were a major mechanism of surplus appropriation'.<sup>23</sup> It is only with the separation between a public and a private sphere, and the end of a political definition of appropriation, that the international system could first be conceived as a system of relations between states. But Rosenberg fails here to recognise that the centre of gravity of power – he speaks of 'empire' – has now shifted to the international private relations of capital.

The merit of Rosenberg's work lies above all in its convincing formulation of critical reservations vis-à-vis those positions that remain dominant in the analysis of international relations. There are, however, two particular gaps that stand out. On the one hand, there is no attempt to explain the transition from one geopolitical system to the next, while on the other, to use the

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<sup>22</sup> Wallerstein 1974, p. 51.

<sup>23</sup> Rosenberg 1994, p. 140.

terminology of David Harvey,<sup>24</sup> the logic of territory is equated too readily with the logic of capital. Even if the systematic connection – the ‘corollary’ as Rosenberg puts it – between the system of individual sovereign states and capitalism can be shown,<sup>25</sup> this does not mean that the character of public power in individual states is adequately grasped. For this does not result exclusively from the exploitation of direct producers in a sphere that is now defined as private and consequently no longer as political.

Benno Teschke has taken up Rosenberg’s line of argument and developed it in a double sense. First, he has shown how it was not so much state sovereignty that was established by the Peace of Westphalia as much as dynastic sovereignty, so that it is wrong to describe the modern international system as ‘Westphalian’. What was at issue in these negotiations was not state territory but, rather, rights of rulership, strict rules of succession, and especially primogeniture.<sup>26</sup> As against Rosenberg, Teschke also offers an explanation of the historical development of a ‘multi-actor Europe’. The ‘myth of 1648’ accordingly signals a milestone among efforts to analyse the historical constitution of bourgeois states. My own reservations are directed against Perry Anderson’s use of the class concept (see below), and the key place that Teschke ascribes to international dynamics. We must certainly agree with him that the international aspect is treated by many authors as simply a contingent additional variable, rather than a constitutive moment of the processes of transformation.<sup>27</sup> Like Wallerstein, Teschke stresses the importance of the geopolitical context in the constitution of modern state power, though, quite unlike Wallerstein, he does not locate the causes of this in the expansionary dynamic of merchant’s capital, demonstrating instead, for example in connection with the transformation processes commonly described as a ‘revolution from above’, that it came about as a reaction to military and diplomatic pressure (not, for example, as the effect of opportunities for commercial expansion). In support of the constitutive effect of the international dimension that he stresses, Teschke argues, for example, that, whilst in France the costs of war, the ever higher level of taxation and the discontent of private financiers eventually led to a crisis of

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<sup>24</sup> Harvey 2003.

<sup>25</sup> Rosenberg 1994, p. 172.

<sup>26</sup> Teschke 2003, pp. 238 ff. & passim.

<sup>27</sup> Teschke 2005.

rule and the French Revolution, in England – the only country where capitalism came into existence as the result of an inner dynamic – it made possible an immense strengthening of the state and a transformation of dynastic state power into modern abstract sovereignty. From this point on, the ‘military superpower’ England influenced development in other realms.<sup>28</sup> This connection is neglected if it is assumed that the separate national paths of European development are simply variants on a basically similar road to modernity, so that analysis is consequently focused on the specific features. For Teschke, the emergence of this concordance arose from the effect of the power potential that could only arise first in England as a country already marked by capitalist production. Whether this concordance appeared earlier or later in other realms was, accordingly, the result of the long-term dynamic of differing class constellations. Although I have also used the method of historical comparison, a method that, according to Teschke, loses sight of international connections, his interpretations, if I understand them correctly, are comparable with mine in a number of respects. Yet an important difference remains. For it was not just power interests and economic interests that had international effects, but also the Reformation, change in family structures, the Enlightenment and modern science, the commercialisation of rule and the historical constitution of the concept of ‘interest’, which spread through a particular region of the world in the era of the *ancien régime*. These created, according to the thesis developed in this work, central preconditions for the historical constitution of the bourgeois form of modern state power. They were also elements of the ‘international dimension’, and have to be taken into account in the explanation of developments in individual states. How great an importance is attributable to these elements in the constitution of the bourgeois form of modern state power is evident from the fact that there are many (postcolonial) states that were constituted in the international context of economic and military power structures, sharing important institutional and legal regulations with the first modern states, and yet remain fundamentally different from these.

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<sup>28</sup> Teschke 2005, pp. 14 ff.

*Perry Anderson's theory of the political conditions for the transformation process*

For Perry Anderson, the historical dynamic results from class conflicts. But his position differs considerably from the variants of dogmatic Marxism. For example, he does not maintain that the developments that eventually led to capitalism and the bourgeois state can be adequately explained in terms of the conflict of interests between lords and peasants. Similar opposing interests exist in many parts of the world, without having led to this kind of development. In Europe, the structures of feudal exploitation were marked in a particular way by earlier forms of property characteristic of antiquity, as well as by residues of collective peasant property from Germanic times. The most important difference, however, lay in a particular development of the superstructure. The church as a generalising instance assumes particular importance in this respect, along with the 'parcellised sovereignty' that made possible the rise of self-governed municipalities free from the immediate lordly rule.

Feudal appropriation, for Anderson, resulted from parcellised 'extra-economic power', and he accordingly sees in feudalism on the one hand a 'rigorous tendency to a decomposition of sovereignty', on the other hand however the 'absolute exigencies of a final centre of authority in which a practical recomposition could occur'.<sup>29</sup> It is precisely here – thus *de facto* in a relationship of competition between the crown and other landlords – that Anderson sees the structural contradiction of the 'centrifugal feudal state'. This supplied the preconditions for the development of absolutism, which subsequently arose as a centralisation of extra-economic appropriation power. This centralisation became necessary because the spread of commodity production and trade would have dissolved the originally parcellised forms of appropriation.<sup>30</sup> Since it guaranteed (private) landed property, the absolutist state, in Anderson's view, was a kind of last bastion of the 'feudal class' against its demise, even though, to outward appearance, the crown had to assert itself against the nobility. At the same time, under the specific historical conditions of Western feudalism, absolutism was the form of transition to capitalism. Its fiscal dependence forced it also to recognise non-feudal private property,

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<sup>29</sup> Anderson 1974 I, p. 152.

<sup>30</sup> Anderson 1974 II, p. 47.

and it was compelled in this way to establish the preconditions for capitalist production.

This reads very similarly at first sight to the common reference today to an 'alliance between states and capitalists', such as Wolfgang Reinhard, among many others, maintains for the sixteenth century.<sup>31</sup> For Anderson, however, the social character of the absolutist state results not from the intentions of those involved in it, and indeed was 'not visible within their categorical universe'.<sup>32</sup> Not intentional, even though with absolutism the centre of class struggles underwent a change. Instead of struggle between peasants and feudal lords, there was now struggle between 'feudal' and 'bourgeois' classes.

Some elements of Anderson's explanatory approach can be found in my own arguments, in particular the emphasis that the modern state (and capitalism) could not arise out of feudal structures, but only from the specific historical conditions that I summarise in the term '*ancien régime*'. The contents of 'absolutism' in Anderson's sense differ considerably from my own structural type of *ancien régime*, yet my most important objection is directed against Anderson's class theory.

For Anderson, precapitalist societies were class societies, in the sense that in these societies too, social groups can be found to which the concept of class is applicable. For Anderson, therefore, until the bourgeois revolution there was a 'feudal class' which was antagonistically opposed by bourgeois forces, in particular the members of the merchant bourgeoisie. Even if portions of this class were integrated into the state, the overall antagonistic character between the interests of merchant bourgeoisie and 'feudal class' remained. Classes, for Anderson, are thus unities of interest. Though concrete political strategies might shake the unity of the ruling class in particular cases (Anderson indicates in particular the Frondist uprisings of the nobility in the age of absolutism), the interests of the dominant class are still expressed in overall state policy. Only in the context of the contradictory structures of absolutism (as explained above) was the unambiguous instrumental connection between 'feudal class' and organisation of power broken.

There are, however, not only fundamental differences between Marxist and non-Marxist notions of class – for the latter, class is often simply a cross-section

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<sup>31</sup> Reinhard 1992, p. 72.

<sup>32</sup> Anderson 1974 II, p. 47.

of social stratification –, there are also very significant distinctions within the spectrum of Marxist theorising itself. Here, we can follow Geoffrey de Ste. Croix, who understands that the justification of a concept of class is ultimately decided by its analytical fruitfulness rather than by previous general considerations.<sup>33</sup> We can also follow de Ste. Croix in his demand that every class analysis should presuppose a fundamental understanding of the society that it is intended to investigate with the help of this instrument. Anderson, however, refrains from analysing what is actually meant by a ‘feudal class’ in the societies he investigates. As a general rule, he means the nobility. (Which would mean – to give a hypothetical case – that a rich merchant in eighteenth-century France who had joined the nobility by acquiring a country estate and an office, and eventually after years of struggle finally obtaining letters patent, would then stand in antagonistic confrontation to his former companions.)

If we persist, following Anderson’s own demand, with a class concept based on the conditions of material reproduction, this interpretation is untenable. For, with the rise of self-governed urban municipalities, which Anderson stresses as particularly important in structural terms, there is a far-reaching integration of the urban oligarchy into feudal power structures. Between the forms of mercantile appropriation which Anderson particularly bases his argument on, and the possessors of feudal power, there were competing interests with respect to the *distribution* of the ‘surplus’ product, but such competing interests equally existed within Anderson’s ‘feudal class’. It was not rare for precisely this latter competition to be waged by armed struggle or legal process to the point of annihilation.

The contents and forms of the distributive struggle between possessors of feudal power and merchants differed from those that had been waged exclusively among the possessors of feudal power. While their relative importance rose, in the long run all forms of such distributive struggles changed – as we shall explain.

As the armed form of competition among lords for possession of power gradually lost importance, many noble lords managed to participate in centralised appropriation. Many nobles also became entrepreneurs in mining or military supplies, others took part in mercantile enterprises or did business with state credit. They thereby belonged to those ‘mercantile forces’ that,

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<sup>33</sup> De Ste. Croix 1981, p. 43.

according to Anderson, antagonistically confronted the nobility. Non-nobles continued to be numerically dominant in the sphere of mercantile appropriation, and nobles in that of appropriation through seignery or landed property. But in the periods which Anderson characterises as 'absolutist' – at least in the kingdoms that he goes on to study more closely – the nobility cannot be treated as a class separate from non-nobles, in any case not in so far as class analysis rests on conditions of material reproduction, which is the premise of Anderson's analysis of the 'absolutist state'. Instead of this, the nobility increasingly became an estate-privileged (and in places also 'politically ruling') group within the appropriation structures of the dominant social strata ('classes').

The reason for this – and this distinguishes my interpretation not just from that of Perry Anderson, but equally from a whole tradition of historiography of the 'bourgeois revolution' – is that the rise of non-nobles occurred in a contradictory structural context of existing social structures, and, as far as one can speak at all of a 'bourgeois class' in pre-bourgeois societies, this means a class that was already economically dominant in these societies.

If the concrete determination of economic positions is thus already ambiguous, then the supposition of common 'interests' on the part of burghers and behavioural motivations following from these is made additionally problematic. 'Common interests' cannot simply be deduced from the fact that historians several centuries later have discovered similar economic and social positions. A merchant in overseas trade living in Rouen in the fifteenth century might be in a similar position to another merchant living in Marseille (though the conditions for social advance which the two faced would still have been very different), but this does not justify historians retrospectively ascribing them to a class constructed as a unity of action. If it is maintained that the majority of 'bourgeois forces' had something else in mind than integration into the social hierarchy that stood before their eyes and was equipped with all kinds of material and symbolic power, it is not absolutely essential to provide evidence of their hopes and strivings – though case studies such as that which Michel Vovelle made of the burgher Joseph See are extremely helpful.<sup>34</sup> There are, however, two indispensable minimum preconditions: firstly, demonstration of an actual generalisation of conditions of material reproduction; and

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<sup>34</sup> Vovelle 1974.



secondly, demonstration of structures of public opinion in which the mutual assertion of common oppositional interests (in terms of class, estate, religion or otherwise) can be pursued. Such structures did already exist in pre-bourgeois societies. They were many and varied: from the military camp via the court and the king's parliament, to religious festivals and gifts, and through to that form of public sphere which formed the historical precondition for the rise of generalised bourgeois interests – i.e. the literary public. Most of these structures, however, were locally limited. Information had to be distributed separately, or travelled as rumour. Only in the epoch of the *ancien régime* did the generalisation of royal power, combined with the technical possibility of a distribution of literary public opinion, create the historical preconditions for people who did not belong to the ruling estates, or lived in outlying places, to become aware of the common character of their complaints. Without these preconditions, 'class interests' are no more than theoretical constructions, and not the basis of actual historical social practice.

In the course of the bourgeois revolution, both of these things came into being: a consciousness of common complaints and a practice of common demands. Criticism of noble privileges was part of this practice. This, however, did not make bourgeois revolutions into a class conflict between nobility and bourgeoisie. Rather, a section of the economically dominant opposed the estate privileges of another section. (More closely examined, it was not only estate privileges that were under attack, but in many cases also the privileges of urban burghers, i.e. privileges that did not take an estate form. But more on this later.) Bourgeois revolutions were always *also* the result of class struggles, but these did not take place between a 'feudal' and a 'bourgeois' class. If the estate conflict between bourgeois and nobles is described as a class conflict, this simply makes the concept of class conflict into a general concept for structural conflicts. But it is not just Anderson's class functionalism that falls along with the class character of the opposition between 'nobility' and 'bourgeoisie', but also a long-standing problematic in Marxism, i.e. the definition of the class character of the 'absolutist state'. The contradictory functionality of 'absolutism', in other words, can no longer be explained by ascribing the content of state activity to the interests of two classes competing for power, and the dispute over the more 'feudal' or more 'bourgeois' character of these forms of power is as outmoded as the discussion about the particular independence of the absolutist state vis-à-vis the economy. Instead of this, state activity in

the power organisations that Anderson describes as 'absolutist states' is to be explained as the result of conflicts in which – in very different 'national' forms – a section of the 'ruling classes' could use its estate privileges, another section its direct participation in the generalised apparatus of power, and a further and relatively small section its direct personal relationship with the court. Those classes that shared the proceeds of appropriation in the age of 'absolutism' were neither 'feudal' nor already 'bourgeois' *in nuce*, they were rather made up of both estate-privileged and non-estate-privileged possessors of appropriation power. In this context, those forms of appropriation power that were historically derived from structures of lordship were increasingly less in exclusive possession of the estate-privileged.

In this perspective, the 'bourgeois revolution' was not the victory of a 'bourgeois' over a 'feudal' class, but rather – indeed, quite the contrary – the historic structural change by which classes first acquired the systemic importance that they have in bourgeois society. The depersonalisation of power was the historical precondition for the introduction of class as a structural category determining development. This does not mean that even in bourgeois society the structural category of 'class' can be simply identified with concrete social groups. In the present essay, this concept will *not* be used to characterise social groups. This equally means that, whenever we speak of class structures, this should not be taken to mean unities of action. Instead, the category of class will serve to characterise a particular content of social relations. We shall only speak of class-type relations (the formulation is ugly, but avoids the misunderstanding that what is involved is relations between classes) when what is under discussion is the appropriation of the 'surplus' product. The *antagonistic* structure of all class-type relations is involved in the definition of what in the particular case is taken as surplus product.

Relations of this kind existed already under feudalism and the *ancien régime*, but they generally did *not appear as such*. Rather, class-type relations were, as a rule, an element in relations of power. Struggles were therefore generally waged over the scope and practice of rule. There were certainly struggles between those who disposed of the means of power and those whose labour-power was exploited, but the extent of appropriation of surplus product was to a considerable degree determined by the scope of rule at issue: ownership of land, but also ownership of legal power and the possibility of exploiting this particular power of disposal over the unfree, the competence to raise

'taxes', the enforcement of monopolies on baking, milling and brewing, the authority to organise armed force, excommunication, and so on. This possession of power might well be limited in practice by the resistance of the dominated, yet the extent of power at any particular time remained in the first place the result of *competition* for possession of the means of power. In the feudal era, this competition followed an economic course only to a very limited extent. Certainly, money did sometimes change hands – especially when towns purchased their liberties – but even these monetary transactions were connected with direct power relations. Power only had an effect to the extent that it could be enforced by arms. The degree of exploitation by lordly power certainly created concrete preconditions for success or failure in the competition for ruling power, but its results were contingent vis-à-vis the struggles for the appropriation of the surplus product. Conversely, however, the results of robbery and the competition (generally armed) for possession of ruling power determined to a considerable extent the means that lords could make use of for the purpose of direct exploitation. But because – as we shall explain in the course of this work – the developmental dynamic in societies of the structural types 'feudalism' and '*ancien régime*' was determined in the first place by struggles for the possession of ruling power, it is not analytically helpful to describe these societies as class societies. For what this concept customarily implies is that class struggles are seen as the moment of a society thus described that determines development.

Even in capitalist societies, classes are only unities of action in rare and exceptional cases. Certainly, class-type existence necessarily stamps people's particular interests, actions and ideas. The (far-reaching) dissolution of personal rule, however, and the separation of the economic sphere, meant that class-type relations were no longer simply an element of power relations, but were rather set free and could appear *as such*. At the same time, the spread of market relations brought about an ever more far-reaching trans-regional concordance in the conditions of material reproduction for members of particular professions and occupations. 'Class' thereby became a general social structure. We do not need to discuss here the extent to which class struggles have determined the development of capitalist societies. It need only be stressed that the unqualified projection of a class-analysis conception back onto societies that historically preceded capitalism unsustainably constricts the question as to the specific developmental dynamic of these societies.

*Max Weber's theory of Western rationalism*

Max Weber set out to beat certain clear paths through the chaotic material of present and past reality. He used for this the heuristic instrument of the 'ideal type', understanding by this '*theoretical constructions making illustrative use of empirical material*'.<sup>35</sup> These were achieved by '*one-sided emphasis on one or a number of perspectives, by collating a wealth of diffuse and discrete particular phenomena – more here, less there, in places not at all – into a single mental image*'.<sup>36</sup>

Weber distinguished between sociological and historical ideal types. As far as the former are concerned, their affinity with legal definitions can scarcely be overlooked. This has not however prevented numerous historians from taking these as a guiding thread for their research. In the following essay, we shall only employ historical ideal types, i.e. genetic concepts. These are constructed in order to focus on those features that stand in an 'adequate causal relation' to a phenomenon that is deemed to be culturally significant.<sup>37</sup> Thus when Weber writes: 'The birth of both the modern Western "state" and the Western "church" was essentially the work of lawyers',<sup>38</sup> this does not mean that he denies the relevance of warriors and tax-gatherers in making it possible to implement particular legal structures, rather that, from the analytical perspective he has selected, the work of lawyers necessarily appears especially decisive.

This guiding perspective – which always results for Weber from the 'cultural significance' of a phenomenon (I leave aside here the theoretical problem of determining this) – is, for him, the breakthrough of Western rationality. It is exclusively from this aspect that he concerns himself with 'the rise of the modern state'. What he investigates in detail, therefore, is especially the formation of modern bureaucracy and formal legal codes, as well as the basis of both in the monopolisation of force by 'rational warfare'. He sees the particular historical possibility for this in the West as lying in the competition between independent states.<sup>39</sup> What Weber does not discuss, however, is the

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<sup>35</sup> Weber 1982, p. 205.

<sup>36</sup> Weber 1982, p. 191.

<sup>37</sup> Weber 1982, p. 194.

<sup>38</sup> Weber 1963, p. 272.

<sup>39</sup> Weber 1968, pp. 399 ff.

significance of state organisation for the overall context of society, since he does not take this overall context in any way as a theoretical object. The question that forms the focus of the present work is completely absent in Weber. Although he deems it insufficient to see the state as functionally determined by the contents of its activity, since – as he rightly stresses – there is no state task that was not already performed by other associations, and none that is purely specific to modern states, he still limits himself to characterising the state in terms of the means and procedures of state power. This limitation of Weber's analysis – which follows from his theory of action and the refusal to analyse systemic connections that follows from this – will not be discussed further here, but we shall discuss the explanation he presents for the breakthrough of Western rationality.

Weber proposes three distinct types of rationality: traditional, value-rational and formal or instrumental rationality, a sequence that also amounts for him to a historical succession of dominant types. Along with the modern firm, the modern state is the most developed of all institutionalisations of instrumental rationality. The further development of formal rationality – which Weber does not identify with progress – can then not only be described for structures of bourgeois societies that have once emerged, it can also be justified. For the once established (and institutionalised) structures of commodity production force on people a purposive rationality of behaviour in ever spreading spheres of production and in other tasks of life. This also explains why in conditions of depersonalised political power, the rationalisation of political institutions is forcefully accelerated. For with the abolition of structures of political power as personal possession, the requirement arises that the means of political power should be made into leading organs for politics. Weber however approaches this point differently. He indicates social bearing groups for each new stage of implementation of formal rationality. For the development of the modern state it was lawyers who supplied the decisive original impulse, for the emergence of modern capitalism it was Protestants in particular. Weber thus denotes particular elements of the historical process – the formalisation of law, or a new perspective on everyday life made possible by a particular interpretation of the doctrine of predestination. With reference to the bearing groups of these developments, he also indicates *preconditions* for the further implementation of formal rationality. What Weber does not offer, and did not intend to offer, is a historical analysis. Just like all the other ideal

types developed from Max Weber, so that of the historical development of formal rationality should not be understood as a generalising abstraction of historical processes, but rather as a theoretical construction. Weber repeatedly stresses that ideal type and history must not be confused. It is therefore not acceptable to 'supplement' the ideal type with economic contexts, as Stefan Breuer, Hubert Treiber and Manfred Walther undertake to do.<sup>40</sup> However, Weber himself already failed to stick to his own 'demands' and keep history and ideal type neatly separate. Time and again, he explains historical changes as the results of a permanently effective process of rationalisation, thus, on closer inspection, as results of a theoretical construction. He therefore leaves out the question of why and in what way formal rationality prevailed against previous forms. Though Weber certainly noted the particularity of market regulations that resulted from kinship and estate structures, and appeared irrational in comparison with 'a regulation of the economy oriented deliberately to the marketplace', he nonetheless ascribed monetary economy and market a transhistorically effective dynamic of their own, and the ability to break the economic bonds of the old monopoly associations and make their members into 'people with a market interest'.<sup>41</sup> But, with the introduction and spread of new forms of economics, law and administration, it was in historical terms only *formally* a question of people replacing a former mode of behaviour by a different one. In real experience, what was involved was almost always the *destruction* of the entire former practical context of life, often even including views about God and the world. Taking this seriously means – in contrast to Max Weber – considering the process by which the instrumental rational model of behaviour came to prevail as a revolutionary one, not something already given in its 'preconditions'. What a research programme of this kind demands, as opposed to Weber's explanation of the process of rationalisation, will be explained here with respect to two complexes of problems: the persistence of peasant economy, and the transition from merchant's capital to capitalist commercial capital.

The first of these involves the assumption that the development of markets set in train a dynamic that in due course took hold of all spheres of life, since rational modes of behaviour were increasingly oriented to markets. This suppresses

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<sup>40</sup> Breuer and Treiber 1982.

<sup>41</sup> Weber 1968, pp. 63 ff.

the fact that the way of life of peasant families followed a different rationality – at least so long as these families had not yet become capitalist production units, and were no longer peasants in any meaningful sense of the term. As the Russian agricultural theorist A.V. Chayanov was the first to emphasise,<sup>42</sup> peasant families tend despite the attraction of the market to continue to orient their production to their own needs.<sup>43</sup> As long as peasants kept some disposal power over their production, narrow limits remained in place to agricultural specialisation and commercialisation. Contrary to Paul Sweezy's contention, exchange-value does not already 'by its mere existence as an economic fact change the organization of production'.<sup>44</sup> For this reason, the separation of peasant producers from their means of production is not only a structural precondition for capitalist development to the extent that owners of capital resort to wage-labour, but above all because only in this way can agricultural production supply more than previously the needs of others. From a historical perspective, many examples show how it was not mere access to markets that changed agriculture, but only the enforced requirement to pay taxes in monetary form:

This economic logic [of the peasant economy] is so far removed from the economic science that developed from the analysis of industrial production, that economists sought with all their might in vain, for almost a century, to apply their accounting grids to the peasant economy.<sup>45</sup>

In Max Weber's theoretical construction, the specific rationality of the peasant economy merges without further ado into the historical dynamic of modern market rationality. The same applies with the transition from burghers to bourgeoisie. According to Weber, the struggle of the urban burghers for autonomy from their feudal lords already constituted them as a bearing group of processes of capitalisation. The development of capitalism was then further pursued by the absolutist princes being forced to ally with the burghers on account of their fiscal needs. For Weber, the emergence of the 'burgher class' was the precondition for the class of the bourgeoisie. His refusal to analyse the different historical forms of what he undifferentiatedly calls 'capital' has

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<sup>42</sup> Chayanov 1966.

<sup>43</sup> Cf. also Berger 1982, pp. 266–93.

<sup>44</sup> Sweezy 1978, p. 53.

<sup>45</sup> Mendras 1995, p. 45.

far-reaching theoretical consequences. Contrary to Weber's assumption, the appropriation practices of merchants were an integral component of commercialised feudal societies, even if they may have created the material preconditions for an escape from direct feudal power relations. On the one hand, long-distance trade was by no means so foreign to 'feudalism' as Henri Pirenne and, following him, Paul Sweezy maintained, while, on the other – and this is especially important for my argument – the form of appropriation of merchant's capital did not already contain within it that of capitalist commercial capital. For 'privileges' *sanctioned by power* (monopolies) limited competition in long-distance trade in such a way that these merchants made fundamentally higher profits than did those made by artisan producers even within guild organisations. This favouring by power is the most important distinction between merchant's capital and (capitalist) commercial capital. It also means – a point made already as an objection to Perry Anderson – that merchants shared in the 'surplus product' of feudal appropriation. The logic of mercantile appropriation structures did indeed involve efforts to expand commercialisation, but not however the attempt to change production itself. Such an attempt was only provoked by the necessity of competition. But since privileges precisely served to exclude competition, this could only be effected by trade that contravened the rules of appropriation guaranteed by power – and thus in opposition to established merchant's capital. There are no grounds for speaking as Max Weber does of the urban burghers' already displaying in their orientation to 'economics' a character that goes beyond feudalism. Those urban burghers who sought to gain possession of feudal power or noble privileges for themselves were following social patterns that were already inscribed in their appropriation practice. The conditions of reproduction of merchant's capital and the mode of existence of urban oligarchies were certainly historical preconditions for capitalism and bourgeois societies, but they did not already bear these later forms within them as tendencies. Quite the contrary: the bourgeois revolution had to be made against these old urban oligarchies, among others, and the development of capitalism required the abolition of the forms of reproduction characteristic of merchant's capital.

Max Weber does indeed mention processes of this kind. But because they are denied any theoretical relevance in his explanation of the rationalisation process, this is seen as occurring less as the result of the particular result of social struggles, and more as the cause of an already predetermined outcome.



Once set in motion, instrumental rationality, as established with the prevalence of formal law and the urban burghers' orientation to economics, becomes an autonomous guiding parameter of history. In this way, the state becomes the 'modern state', and capitalism becomes 'modern industrial capitalism'. For Weber, any special explanation for the constitution of a public power is superfluous.

#### 4. False conclusions from structural analysis

One of the most remarkable results of the comparative study presented here is that particular structures of distribution of power in the age of feudalism gave a different character to the emergence of estates and hence to the structure of the *ancien régime*, in such a way that fundamentally different structural preconditions subsequently arose for the breakthrough of bourgeois forms of political power. For the distribution of power at that time marked the formation of estates and hence the particular structure of the *ancien régime*, and the general and specific structures of the *ancien régime* led to the general and specific possibilities for struggles leading to the abolition of personal rule and thus the historical constitution of bourgeois state power. And this is not all. The different preconditions and forms of the 'bourgeois revolution' also prepared specific conditions for the development of economics and politics in the historical phase of the bourgeois state.

Summarised in this way, this all seems to indicate a dreadful structural determinism, and suggest that economic determinism and structuralist versions of Marxism have been criticised here only to make way for a new variety of determinism. Although the initial conditions, i.e. the specific form of distribution of power under feudalism, are introduced as historically contingent results of armed conflicts, the further development of power relations would seem to be ascribed an internal logic. This impression is deceptive, and will be refuted – at least so I hope – in the course of my analysis. For the *retrospective* recognition of a constraint, the subsequent trace of the continuing effect of 'origins', is analytically limited. In the structural logic of history, it is only those historical developments that have actually been realised that ever appear in the picture. All those other historical alternatives that had also developed on the basis of the concrete preconditions of the time, and were also represented

by supporting groups, are removed. In the conduct of historical analysis, it should become clear how at each historical moment the actual development of the structure of power contains more or less pronounced elements of historical contingency; more precisely, the development is determined by the life practice of the people of the time. The conditions of this practice are given by the existing forms of material reproduction and appropriation, the form of political power and the dominant conceptions of God and the world. But these general conditions of action – and it is these that carry the ‘structural logic’ of the development from feudalism to the present day – do not completely determine concrete behaviour.

We can dispense here with any general social-theoretical thesis about the ability of people to recognise the conditions of their lives and subsequently change these in a process of self-reflection. For even without claiming to tackle fundamentally the dialectic of freedom and unfreedom in the historical process, it is enough to show in our present context how the concrete historical development came into being by a life practice of individuals and social groups that was only partly determined by the existing structures of power and relations of production. Thus it is easy to understand in retrospect how the limitation of the English kings’ autonomous armed force made it harder for them to tax the English peasants. If direct taxation was actually prevented for so long a time, however, this was due to the angry courage of the rebels of 1381, and while this was a possibility in the particular situation, it was in no way a necessity. This state of affairs also applies to everyday life: the late marriages that were typical for the poorer strata of the French population in the eighteenth century appear to us in hindsight as the ‘logical’ consequence of their conditions of life. But this ‘logic’ only prevailed because many people held the view that marriage was a particular form of coexistence, defined not only by the church but also socially in a specific manner. This meant for example that marriage was impossible between a man and a woman who were beggars. The fact that such couples then lived not only in poverty but also ‘in sin’ reveals generalised and individual struggles with existing conditions.

The ways that people who possessed power dealt with the established structures seem more striking. In our historical comparison, the philosophical question of the significance of the subject in the evolutionary process can be reduced initially to the cautious contention that for the development of

structures of power in the European Middle Ages and the early-modern era, the structural importance of the life practice of individuals increased in relation to their personal power.

This explains, incidentally, why right across estates and classes, women appear relatively rarely in this study. The general demand to pay attention to the role of women in history not uncommonly suppresses the question of the weight of this role in specific evolutionary processes. The everyday life of women was of decisive importance for very many elements of the developmental process, as the scope and forms of exercise of power were quite often limited in this way and given a particular shape. But, if we maintain that the struggle for possession of armed force in particular historical epochs was a central moment of the process of evolution of power, and thus also of the conditions for conflicts over appropriation of the social 'surplus' product, this means at the same time that the life practice of the great majority of women was structurally of secondary importance in *this* respect. This no more makes women into mere victims of history than it does those peasants or day-labourers who strove – with more or less awareness – to manage their lives under the conditions of specific forms of power.

The structurally varying possibilities of effectiveness of individual action can be illustrated by a particular example. The political decision to appropriate religious power in the 1530s was made in the first place by Henry VIII himself. The English king's plan was approved by a section of his advisers, and by a majority in Parliament. In this way, the king created a certain 'religious policy' situation in England. The religious practice that subsequently developed, however, was only to a small extent influenced by the exercise of ruling power, but depended very much more on the ideas of many women and men about the meaning of their life and the significance of death. This is to say that the development of the church in the late sixteenth and seventeenth century was certainly not determined by power. Yet a political act that, though historically possible in the 1530s, was by no means unavoidable, gave this process a particular stamp. We may speculate that the Reformation in England would in any case have triumphed sooner or later. For our particular concern, however, it is far more important that the shape and form in which the Reformation was politically introduced subsequently marked English history for the next three hundred years. For longer than anywhere

else, struggles over the form and distribution of power in England were experienced as struggles over religious belief.

To dwell on this example a moment more: the specific structure of English royal power was an important precondition for the process of Reformation in England taking a very different form from in Germany. This structure of royal power contained elements that had been transmitted from English feudalism – but did not necessarily have to be transmitted. The outcome of the Wars of the Roses was no more certain than the success of the first Tudor king in maintaining his power. It is only with hindsight, if we ignore all the other historical possibilities that were equally present, that the particular possibility that became reality appears as the ‘logical’ result of a particular historical precondition. It indeed is so. But it is precisely not the only possible ‘logical’ consequence. And, for this reason, historical chronology, even in so structuralist a version as this summary of analytical results, only offers a causal analysis to the degree that it shows the extent to which certain historical alternatives were excluded by quite particular developments. Establishing the way in which long-term historical developments of power structures were marked by the particular form of feudal power organisation is thus no argument against the relevance of subjective intentions of action, any more than it is evidence of the structural determination of such action.

## 5. Pitfalls in historical comparison

In 1583 Thomas Smyth, ‘Doctor of the civil laws, knight, and principall Secretarie unto the two most worthie Princes, King Edwarde the sixt, and Queen Elizabeth’, published his book *De Republica Anglorum*. Here he used the method of historical comparison in order to demonstrate the peculiarities of the English kingdom, especially those of the constitution of its nobility. He was well aware of the problems of this procedure, ‘...for never in all pointes one common wealth doth agree with an other, no nor long time with it selfe...’<sup>46</sup>

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<sup>46</sup> Smith 1970, p. 22.

Among historians, leaving aside such remarkable exceptions as Frederic William Maitland, Frank Stenton, Otto Hintze or Marc Bloch, the comparative method is not beloved. The high esteem they have for particularities, and their reservation towards attempts to reach generalising theoretical assertions, long stood in the way of such research programmes becoming more popular. Sociologists, for their part, do not have the same scruples, but this has not always proved an advantage. Thus, while early evolutionary theorists through to Max Weber made use of historical comparison chiefly with the aim of illustrating theory, more recently many already take the presentation of a concordance of particular 'clusters' of attributes as a sufficient explanation of forms of state and nation-building. In view of this kind of practice, Max Weber's objection to the historical school of economics is worth recalling: demonstration of parallelisms and regularities, wrote Weber, might serve a heuristic purpose. But any law-like regularity, in so far as it can then be found, 'would still fall short of any kind of *causal* clarity, and the scientific elaboration that can only begin at this point and for which these parallelisms only provide material, would then have to decide above all on the kind of knowledge to be sought'.<sup>47</sup> Weber himself pleaded for the demonstration of causal connections, and moreover in the sense of a concept of causality appropriate to the social sciences.<sup>48</sup> This demanded interpretation of the empirical material. For Weber, rational interpretation led to the formation of ideal types as already discussed. As distinct from a misinterpretation widespread among historians from Otto Hintze onward, this is not a question of real abstractions – such as Marx for example aimed at – but, rather, of theoretical constructions that are free from logical contradiction, and for which the empirical material serves only as a basis.

Existing works of historical comparison, unfortunately, rarely give the opportunity for a concern with the difference between real abstraction and Weberian ideal types. For the great majority of them, the objection that Weber raised against representatives of the historical school still applies: confusion between empirical regularities and the explanation of causal connections. In the context of the *interpretation* of causal connections, historical comparisons are not simply useful, but methodologically quite indispensable.

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<sup>47</sup> Weber 1982, p. 133.

<sup>48</sup> Weber 1982, p. 134.

The two works I shall discuss here more closely fall outside the general spectrum of comparative investigations. Their methods – at least at first sight – are rather similar to my own. In a certain sense, the works of J. Barrington Moore<sup>49</sup> and Theda Skocpol<sup>50</sup> can be seen as continuing the research programme developed by Reinhard Bendix<sup>51</sup> in the wake of Joseph Schumpeter. Against the over-rapid generalisations of studies influenced by modernisation theory, Bendix maintained that the specific historical context of constitution remained effective in relation to the structural effects of ‘modern national statehood’, and provoked specific developments.<sup>52</sup> For this reason, it was not enough simply to seek formal similarities, but careful attention had to be paid to the characteristic specificity. Both Theda Skocpol and Barrington Moore elaborated typologies for the concrete contexts in which modern statehood came into existence. Like Bendix and the present author, they assumed a long-run structural effect of this constituting context. For Barrington Moore, the presence of the bureaucratic apparatus of an absolute monarchy (a synonym for him of territorial power) formed the starting point of modern statehood.<sup>53</sup> In England, France, Japan, Russia, Germany and China he saw such an apparatus as present. Whether the path to modern statehood took a democratic, fascist or communist turn was, in Moore’s view, dependent above all on social developments in agriculture. A further factor, however, was whether a ‘pre-industrial bureaucracy’ remained in existence through to the age of industrialisation. This he saw as having been the case in Germany and Japan, and combined with the forcible extraction of agricultural surplus production, this fact, in his view, determined the path of Germany and Japan into fascism. Peasant revolts, on the other hand, led to a communist régime. The taming of the peasantry and a more-or-less marked balance of power between nobility and king, together with more or less powerful burghers, was, in contrast, the condition for a ‘bourgeois revolution’. This was, for him, the characteristic route of the English, American and French revolutions. The term ‘bourgeois’ thus related not to the particular bearing group, but rather to political and legal results of the revolution. For Moore, therefore, ‘bourgeois’ state power

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<sup>49</sup> Barrington Moore 1966.

<sup>50</sup> Skocpol 1979.

<sup>51</sup> Bendix 1978.

<sup>52</sup> Bendix 1964, p. 8 & *passim*.

<sup>53</sup> Moore 1966, p. 479.

existed in England, France and the USA, but not in Germany. This interpretation made fascism a phenomenon foreign to bourgeois society, and maintained a necessarily continuing structure of freedom for the 'bourgeois states'.

Moore's historical explanations need correction in many points of detail. This is not the place for a detailed critique, so I shall limit myself to the general problematic. For Barrington Moore, the content of the concept of *ancien régime*, which he also uses, is limited to the presence of exploited peasants, nobles and territorial lords. The kind of religion that determined how people gave meaning to their lives under the old régime, the question whether dues were levied on individual peasant families or on entire villages – all this plays no role in Moore's application of his periodising concept. He ends up transposing assessments of the phenomena of modern statehood back onto historical-structural preconditions. Since these phenomena display major similarities between Germany and Japan, he presumes historical preconditions that are structurally identical. He overlooks, in this connection, how in respect to those rural social relations that he himself claims to determine development, the distinctions between England and France were far greater than those between France and Germany. Moore also states that the peasant problem in England was forcibly 'solved' by enclosures, whilst, in France, independent small-peasant subsistence with limited commodity production continued far into capitalist development. When Moore, despite the cautionary note he strikes elsewhere, impulsively asserts that a large part of the later history of England and Germany can be deduced from the fact that English landlords in the sixteenth and seventeenth centuries needed land for their sheep, while their German counterparts were led to forcibly oppress their people in the interest of grain production, this formulates a structural determinism whose political motivation immunises it against the findings of social-historical research. It also blinds him to those completely dictatorial practices of state power that states which – according to Moore – were fundamentally democratic were capable of against colonised or local indigenous peoples.

After Barrington Moore, Theda Skocpol also developed a theory of the constitution of statehood by social revolutions, basing her macro-sociological comparison on the French, Russian and Chinese revolutions. She maintains, first of all, that revolutions do not take place as a result of any revolutionary intention. She also stresses that structural results are not determined by the bearing group of the revolutionary process, since those groups who fight

for leading positions in the course of this process are not necessarily representative of the mass movement. As against a theory of social conflict such as Charles Tilly puts forward, Skocpol emphasises the structural change that revolutions effect. In this connection, however – as distinct from my own line of argument – the possibility of revolutionary structural change is tied to the form of *events*. What Anthony Giddens calls the ‘drama of revolution’ actualises the question of control over power. But the relationship of power can still undergo a fundamental (and, in this sense, revolutionary) change, even if the ‘question of power’ is decided by the retreat of a previous ruling group, or in struggles that extend over a long period of time and may well involve neither the building of barricades nor the march of armies. France is not more similar to China than to England because, in Skocpol’s view, the revolutions that took place in both countries show great similarities in their phenomenal forms.

For Skocpol, too, the period of the *ancien régime* is defined by the presence of exploited peasants, nobles and territorial lords. Social similarities – such as she establishes especially between France and Russia – pertain to the distribution of power between nobles and monarch, i.e. a structure characterised only in formal terms. (I also ascribe the distribution of power considerable structural importance for the differing development of England and France. But this difference is characterised as one within the structural type of *ancien régime*, definition of which is not exhausted by indicating a structure of power distribution.) Both Skocpol and Moore seek to grasp historical processes. Their discussions, however, refrain from any analysis that takes more into account than the organisational form of power distribution. Both their theories are thus reduced to a simple logic of power. An objectivism of this kind may well indicate certain formal similarities in the events leading to state formation. Its explanatory power however does not stretch beyond this. I do not overlook in this criticism that the methodological conditions for historical comparison can be formulated only in very broad lines. I would not, like Philip Abrams,<sup>54</sup> subject the representatives of this species to a cavalier treatment with the methodological demands developed by sociologists. It is clear all the same, however, that the processes of state formation cannot be

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<sup>54</sup> Abrams 1982, p. 155.



compared in isolation from one another. In the following investigation, the object is to compare the development of two spheres of power, whose extents were determined in particular periods by mutual military and diplomatic strategies, and which later were involved in international competition over the opportunities for appropriation outside of Europe. This is, therefore, a comparison that has to include reciprocal relations.

## 6. Advice on reading

I have refrained from investigating the significance of 'political theories' in the development of the organisation of power. Works such as that of Bertrand de Jouvenel<sup>55</sup> on the beginnings of the modern state inhabit a different continent of thought. By excluding this here, I criticise the assumption of a direct effect of theoretical notions on social (and 'political') reality. This leaves unanswered the question as to the – historically variable – conditions for the influence of theoretical production on the (socially structured) 'conventions of thought' (Quentin Skinner), and thus on social practice. On this point, the present analysis will confine itself to particular indications and cautious analytical considerations.

The general features of the historical epochs 'feudalism', '*ancien régime*' and 'bourgeois society' are presented in summary form in Part Five of the book. It is only there that the structural concepts used in the present work are specified in detail. Readers interested above all in the theoretical foundations of the analysis are recommended to read this explanation of the conceptual framework of historical epochs before going on to the application of these to historical analysis in Parts Two and Three.

For the sake of simplicity I sometimes use present-day notions retrospectively. If 'France', 'state' or 'society' are placed in apostrophes, this indicates that these notions did not correspond to any (complete) structural reality in the historical context referred to.

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<sup>55</sup> Jouvenel 1976.

## **Part Two**

**From *Ancien Régime* to Bourgeois State: England**



## **‘How then did they do it?’**

It was almost in admiration that Jack H. Hexter inquired as to the reasons for the rule of ‘a landowning aristocracy’ in England that had lasted for a good seven hundred years.<sup>1</sup> Bruce MacFarlane went even further. In his view, England’s ruling class was able to maintain its position quite unchallenged for nine hundred years.<sup>2</sup> For both authors, it was the peculiar adaptability of the English aristocracy that accounted for this phenomenon.

Alan Macfarlane, for his part, also insisted that English society had scarcely undergone any change in its basic structures for a number of centuries. He gave as the reason for this that in England private property, capitalism and modern family structures had already come to prevail in the thirteenth century. The theories of possessive individualism that were formulated in the seventeenth and eighteenth centuries did not relate to any new social developments, but simply to long-existing practice.<sup>3</sup> Macfarlane referred to accounts by contemporary travellers to justify the considerable differences between social relations in England and on the Continent, differences that would have been visible as early as the fourteenth century.

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<sup>1</sup> Hexter 1961, p. 19.

<sup>2</sup> MacFarlane 1973, p. xx.

<sup>3</sup> Macfarlane 1978.

The revolution of 1649, in this view, did not impose any new structure of possession, but simply affirmed in law what was already in existence.<sup>4</sup> On the other hand, estate privileges persisted through to the time of industrialisation. The reasons for these particular features of English development – what Thompson described in an important essay as the *peculiarities* of the English – lie at the centre of the following analysis.

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<sup>4</sup> Thompson 1965/1978, p. 316.

## Chapter One

# English Feudalism: Appropriation by Land Lordship and Force of Arms under Feudally Generalised Royal Power

### a. Preconditions of feudal rule

In the eleventh century there were thousands of peasants in England who were 'bound by strict routine of weekly labour to the estates of private lords'.<sup>1</sup> Free peasants had also to pay taxes to the king's representatives, and to work when required on the building of castles and bridges under their command. From the time that the English nobles appropriated their own judicial authority (by the tenth century at the latest), the peasants also had to obey this. There were many lords who sought to use their legal power to abolish the difference between free men and slaves. If free peasants [*ceorls*] had increasingly to be represented by a noble lord (i.e. their lord) at the courts of the hundreds (called *wapentakes* in the regions under Danish rule), this similarly created new intermediate strata in the region between nobles and slaves, in which the position of the peasantry of 'old England' evolved as a result of threat, protection, compulsion and resistance. The professionalisation of military practice caused the position of the peasants to undergo a further shift. The quotas

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<sup>1</sup> Stenton 1962, p. 463.

for military obligation may well have been related to territorial administrative units, and thus to the number of their inhabitants capable of military service, rather than just to the lords. The 'hundreds' were already obliged to provide 'shiploads' for the fleet in the ninth century, and all 'free' men were liable for defence against the Danes in the eleventh century (though there are few records indicating the extent of their actual involvement). Altogether, however, the fighting force [*fyrð*] of the Anglo-Saxon kings in the tenth and eleventh centuries was composed of both noble and non-noble knights [*cnihtas*], the latter being professional warriors like those of the Normans. This means at the same time that the difference between nobles and peasants no longer consisted principally in the level of *wergeld* that had to be paid in case of their murder, but, more than previously, in the armed force at their disposal. The professionalisation of warfare did not just go together with the development of peasant subordination, it was one of its constituting features. Several authors<sup>2</sup> suppose that this form of subordination of the peasants ('lordship') was already transformed into monopoly possession of land in the decades after the Conquest, with the claim to rule over people consequent on this. Others see the transformation as a later process. But details of this kind are scarcely determinant of the forms of forcible appropriation in the eleventh and twelfth centuries.

What is decisive here is that the Norman conquerors, when they took the place of the indigenous nobility, appropriated an already established power of rulership over the peasantry. It is true that those of the new lords who remained in the country scarcely dared at first to live in isolation on their possessions. Along with other Normans, they kept to the newly built castles, from where they could demonstrate their armed force collectively. So many 'foreigners' were murdered at this time, moreover, that the royal courts tended to assume that every murder victim was a Norman until proof of the contrary was shown, and to demand a corresponding penalty.<sup>3</sup> On the whole, however, the existing law continued in force, as William had proclaimed that it should. For the peasants, the invasion did not immediately mean a change in rule, but only in rulers. The language of the new lords may have been incomprehensible, but their practice of exploitation certainly was not.

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<sup>2</sup> For example Lennard 1959, p. 24.

<sup>3</sup> Richardson and Sayles 1963, p. 93.

This point reduces the analytical significance of the debates that have been waged for a good hundred years over the process of feudalisation in England. While some maintain this was an 'evolutionary' process that had already begun in 'old England', others interpret the Norman Conquest as a revolutionary transformation of the previous relations into feudalism.<sup>4</sup> At the centre of these debates lie questions as to the social forms of military organisation, the transfer of land with military obligations in 'old England', and the equivalence of the Anglo-Saxon oath and Norman homage – i.e. the comparability of the social position of the Anglo-Saxon *cnihtas* with that of the later *knights*. The material basis of the social relations between warriors, however, is largely overlooked in these discussions. It did not immediately change.

In old England, lordship was sanctioned by Christian doctrine. Since Roman times, Christian communities had existed among the Celts. These developed their own liturgical rituals, in particular their own way of determining the date of Easter, and were initially quite unwilling to give up these customs when missionaries from Rome arrived at the end of the sixth century. 'The church' of this time, this expression coming to mean in the ninth century principally the community of clerics rather than that of believers, did not have a fixed hierarchical structure. For a long while, it consisted of bishoprics that were largely independent of one another. At first, these had only churches under their control. In the course of time, bishops established ecclesiastical branches ('minsters'), or transferred the work of these to monasteries. Especially significant, however, is that independently of the bishops, larger and smaller territorial lords began to build their own churches. They appointed their own priests, and by the tenth century these were at the same time servants of the Lord in heaven and of a lord on earth. The earthly lords required administrative activity above all. Like their other servants, the priests had to perform tasks in kind, in this case *church-scots* [gifts], *soul-scots* and *plough-alms*. In the struggle against the effects of the Danish invasion, and against persistent heathen customs, a reform movement began in the church in the tenth century, leading on the one hand to a (new) strengthening of monastic culture, and on the other to the ecclesiastical anchoring of municipal structures. The fact that, in eleventh-century England, three-quarters of all episcopal seats were occupied by monks (including some from Normandy even

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<sup>4</sup> Cf. Hollister 1969, p. 1.



before the Conquest) documents the secular support of reform efforts within the church of 'old England'.

In the eighth century, England still had seven distinct kingdoms, but by the tenth century these had been combined into one. This concentration of power was the result of armed conflict among the kings, accelerated by the requirements of defence against external threat, and by episcopal support for the powerful overlords of the day. The generalisation of royal rule succeeded in England to a degree that was quite unusual for the Christian West at this time. In the tenth century, English kings not only had far-reaching judicial power at their disposal, but large portions of the kingdom were divided into shires, and these again into hundreds or *wapentakes*. Regular court sessions were held in these royal districts, half-yearly in the shires, monthly in the hundreds and *wapentakes*. Both nobles and free men (in the eleventh century presumably only the better situated of these) were summoned to these, to pronounce justice under the supervision of *shire reeves* ('sheriffs') appointed by the king.

The clergy ('clerks') supplied the English kings with administrative skills, for which Glastonbury supplied a good training. There were the beginnings of a systematic budget, and control over coinage was enforced. Nothing indicates more impressively the incomparable authority of English kings than the amount of tax they were able to extract from their subjects. The so-called *danegeld*, required either to buy peace from the Danes or to finance their expulsion by military means, amounted in 991 to £10,000. By 1002 this had risen to £24,000, and in 1012 to £42,000: 'an appalling level of taxation',<sup>5</sup> evidence of both the administrative efficiency of the royal power and the degree of monetarisation of power relations in 'old England'.

## **b. Establishment of feudal power structures**

### *b.1. The conquest of lordship*

William II, duke of Normandy, claimed in 1066 the succession to the English throne promised him by Edward the Confessor. But since in the year of Edward's death Harald the Norwegian had himself crowned king of England,

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<sup>5</sup> Kirby 1967, p. 119.

legitimate succession was transformed into an act of conquest. Through the Conquest, the Norman duke took immediate possession of all the means of power that the Anglo-Danish kings of the tenth and eleventh centuries had appropriated: power of exploitation over slaves and peasants who worked on the royal possessions, as well as the power of 'taxation' that was practised by the reeves in the shire on the king's behalf.

Until the beginning of the twelfth century, the duty earlier known as *danegeld* was still raised. Though 'feudal' obligations weakened in the twelfth century, in the final decade they were reintroduced under the name of *car-rucage*. Alongside these taxes raised locally, the kings also imposed duties on incomes and movable possessions. These were sometimes raised for specific purposes – such as the financing of Crusades and wars or for the ransoming of Richard II. 'Aid' of this kind was demanded from all free men.

The Normans also conquered for their duke the military power of the Anglo-Danish kings, which extended just like their power of 'taxation' to all male inhabitants of the kingdom, with the exception of slaves.

At the beginning of the twelfth century, the *fyrð* was summoned for defence against an expected French invasion – a defence organisation developed by the rulers of 'old England', for which inhabitants (and possessors) of particular territorial units were liable irrespective of their personal relationship to the king. In the course of the century, however, recourse to this form of military organisation came to an end, since the *fyrð*, even if its members were not all militarily incapable, was scarcely professional enough for the armed conflicts of the new age. Abandonment of the *fyrð*, and of the compulsion of full military obligation for vassals, was possible because the Norman rulers were rich enough to hire mercenaries. It is true at least for England that mercenaries became a very significant element in the organisation of armed force much earlier than is compatible with the ideas of feudal conflict that have long been prevalent.<sup>6</sup>

The conqueror also took over from his Anglo-Danish predecessors the structures of local judicial power: the hundred and shire courts were maintained (or newly introduced by William's successors), along with their control by the sheriffs. Independently of their position in the system of tenure, all free men in a district were obliged to take part in these courts.

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<sup>6</sup> Cf. Prestwich 1981, pp. 87 ff.

The king's barons received, along with their tenancies, judicial authority in all matters pertaining to these. Keeping the peace, however, remained the task of local and royal courts. Whilst many of these local courts did indeed become the private possession of sheriffs or lords, the general judicial power in England never became a component of lordship over land, and the strengthened royal control of local courts later on should thus not be interpreted as an expropriation of ruling power from these lords.

The fact that the lords very often dominated the judicial practice of the hundred and shire courts, even though these were not in their possession, is beyond question. But the parcellisation of general ruling power that is frequently taken as a characteristic of 'feudalism' faced notable limits in England due to the strength of royal power.<sup>7</sup> This limitation of feudalisation in England, however, was possible only because England was in another respect 'the most feudalised' of all medieval kingdoms.<sup>8</sup>

This situation was reinforced during the period of occupation rule that was practised in the wake of an uprising of indigenous nobles in 1067. In the words of William of Poitiers, 'Against the fickleness of the vast and fierce populace', castles were built in London (to which the quotation given here specifically refers) and elsewhere in the country.<sup>9</sup> The Normans now undertook systematic destruction in order to subdue the rebels – most of all in Yorkshire. Above all, however, on two occasions in the twenty years following the Conquest all secular indigenous nobles were expelled from their possessions and posts, and, on one occasion, this was also applied to religious nobles.

By forcibly expropriating the rule of the English nobles, the new king was able to make the barons who had accompanied him from Normandy (*baro* was used in the eleventh century to denote any man, even a lord, who paid homage to another) into lords of the land in England.

The king kept about a fifth of the cultivable land in his own possession, and divided the rest between some 190 religious and secular tenants-in-chief (vassals of the crown), of whom twenty secular and twelve religious lords received almost half of the distributed land.<sup>10</sup> The granting of 'honours', i.e. land that could serve as the basis for lordship, was an obligation that the Conqueror

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<sup>7</sup> Cf. Barlow 1966.

<sup>8</sup> Maitland 1920, p. 156.

<sup>9</sup> Platt 1978, p. 4.

<sup>10</sup> Corbet, cited after Lennard 1959, p. 25.

could not evade. Yet the Conquest was anything but a 'joint stock enterprise'.<sup>11</sup> The kingdom had fallen to the king, not to the participating conquerors.

Since the Norman king was in a position to effectively decide on the fiefs of his barons, he could also realise sufficient claims to generalised rule. With the great survey of 1086, which by its unprecedented precision appeared to contemporaries as a foretaste of the last judgement ('domesday'), the king proclaimed his will to maintain control over the distribution of land. In the same year, he demanded that the knights of the country (i.e. not only his own vassals) should swear allegiance to him. In this way, general subordination became a characteristic of the royal rule towards the end of the eleventh century. The practice of demanding an oath of loyalty from all knights was continued. As Thomas K. Keefe has shown,<sup>12</sup> in the second half of the twelfth century there was an almost regular administrative practice through which those knights who were not yet signed up in the lists of the king were called on to take their oath during the next Lent season.

#### b.2. *Development of the manor and lordship*

The particularities of English landed property resulted from the royal monopoly over land: besides the king, anyone who held land after the Conquest was either a 'tenant', or the administrator or sub-tenant of a tenant. The generalising concept of tenant, which covers the tenants-in-chief who were vassals of the crown as well as the cottagers who had only a dwelling with a little garden around it, expresses the generalised structure of dependence arising from this royal monopoly. This later entered legal theory as the 'doctrine of tenure'.<sup>13</sup>

At all levels, this material dependence also involved rule over the tenant's person. No more than the 'villein-tenant' could the tenant-in-chief decide the marriage of his daughters; he had either to purchase this right if he could, or receive it as a particular favour. Just as with the services of the peasants, there was no set limit to the services of their lords – at least in case of need, such as the imprisonment of their own lord. Yet the conditions of life of the lords

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<sup>11</sup> Davis 1969, p. 127.

<sup>12</sup> Keefe 1983, Chapter 1.

<sup>13</sup> Holdsworth 1977, p. 21.

were, of course, worlds apart from those of the poor, indeed of all who had to live from the work of their hands.

The formalisation of differing conditions for the possession of land was given its decisive form by the recording of court decisions. As far as cases involving land went, to the best of our knowledge this did not occur until the mid-thirteenth century. The general characteristics of these differences, however, can already be seen in the text of the Domesday survey of 1086. There were, first of all, the tenants-in-chief, who had received their land directly as a fief of the king. They were obliged to keep themselves and other men-at-arms available to the king for a definite period each year. An exception from this obligation was made for some fiefs of bishops and abbots – though still not all of them in the twelfth century. If they held their fiefs in the form of *frankalmoin* [‘free alms’], they were required to give the king their counsel, (financial) aid, and above all prayers. George W. Keeton described this form of fiefdom as an attempt to involve God himself in the structures of obligation of feudal right.<sup>14</sup> Other military vassals had a choice in how they wished to perform their obligation to provide armed men. Many of them for example kept knights in their households, but most, in the course of time, gave out tenures with an obligation to knightly service. In the mid-twelfth century, the ‘knight’s fee’ – i.e. a tenancy that required the readiness of a knight – became the basis for the Anglo-Norman organisation of armed force.<sup>15</sup>

Among those who worked the land, the royal officials of 1086 distinguished, besides some groups of persons whose descriptions (for example *cothlethle*) pertained to the amount of land they held, three particular ‘status’ groups: *servi* [slaves], the number of whom was declining, as they now became settled and thus merged together with the second group of *villani* [villeins], and *liberi homines* or free men. Around 1086, the distinction between villeins and the peasants described as free, the ‘sokemen’ and the inhabitants of boroughs (who also held their land in the form of *socage*) was above all a fiscal one, i.e. related to the obligations that most interested the king’s officials. Possession of land did not completely correspond with status at this time.<sup>16</sup>

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<sup>14</sup> Keeton 1966, p. 151.

<sup>15</sup> Keefe 1983, p. 1.

<sup>16</sup> Lennard 1959, pp. 339–89.

At the end of the twelfth century, the lords managed to use the distinction between sokemen and villeins to better exploit them.<sup>17</sup> This strategy was a reaction to changes in their conditions of appropriation. The crown was demanding higher payments, while, at the same time, the lords were having to spend more on warfare. On the other hand, however, rising food prices at this time made the cultivation of lords' domains [*desmesnes*] particularly profitable, provided that sufficient unpaid labour-power or else sufficient money to pay wages was available. The securing and possible intensification of peasant exploitation could most readily be effected if labour-power was completely under the power of the lords. The lords were able to achieve this because, whilst under Henry II every free man received the right to complain to a royal court, this right did not apply to villeins. In this way a division of judicial power was formalised. Men who were not free were subject to the exclusive jurisdiction of their lords, whereas free men – as subjects of the king – could complain against the judicial decisions of their feudal superiors. At the same time, the concept of 'manor', which at the time of the Domesday Book still meant simply the strong house of a lord, came to be used to describe a system of appropriation and rule.

That these developments were of great significance for the conditions of life of the peasants is shown by the many attempts these made – almost invariably without success – to have royal courts establish that their ancestors were *villein sokemen* on the royal *demesne*. Even if they no longer held land from the king, this would mean that they were still entitled to put their case to the royal courts and thus not be totally delivered to the arbitrary power of their new masters. The courts, however, would not find in their favour, even if their 'appeal to the book of last judgement' was well-founded,<sup>18</sup> whilst the lords for their part insisted that the ancestors of the plaintiffs had already arrived on the land as un-free men.

Formalisation of manorial rule by the prescription of obligations in labour and in kind, together with the increased transformation of these into monetary dues in the course of the twelfth century, could only worsen the situation of the peasantry, everywhere that the lords were strong enough to tie such prescriptions and transformations to intensified and increased obligations.

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<sup>17</sup> Hilton 1965.

<sup>18</sup> Cf. here C. Dyer 1981, pp. 16 ff.

The regularisation of exploitation, however, just like the greater freedom of disposition through monetarisation, could in some cases work in the peasants' favour. This was not least a function of the size of the manor, and especially whether or not it coincided with the village structure. If manor and village coincided, then the lords generally succeeded in bringing the *vill*, a board of decision of the peasants that also functioned as the lowest collective organ of justice, under their rule. They thereby also dominated the decisions of the *vill* over production arrangements (such as sowing and pasturage times) and conditions of production that had to be collectively decided, such as crop rotation. But where a manor was composed of widely scattered holdings and did not coincide with village structure, or else the villages were so small that the labour services of the peasants were insufficient for the cultivation of the domain without wage-labour, the peasants were then able to some degree, as early as the twelfth century, to transform not only rents in kind, but also labour services, into money payments, without the degree of exploitation being increased in the process. Many already purchased the abolition of their villein status. What this meant at this time was above all that they had to buy their freedom from those obligations – particularly *tallage* and *heriot* – which the royal courts increasingly took as proof of their villein status.

The removal of villein status meant freedom from those material obligations that disadvantaged the villeins in relation to the sokemen. In the long run, however, and particularly for the descendants of these peasants who had purchased their freedom, this improved legal situation did not necessarily lead to an improvement in their material position. This is clearly shown from the fact that the very poorest peasants included relatively more free than unfree. The legal status of the free offered greater possibilities for possession, but also for the (hereditary) partition of land and the loss of the land through indebtedness.

Already in the thirteenth century, leasehold structures were widespread in England. The number of wage-workers also rose at the end of this century. Owing to the substantial growth in population at this time, it was hard for men to acquire sufficient land to marry.<sup>19</sup> Others had to accept wage-labour in order to pay their rent. Several authors have taken these phenomena as a basis for shifting the beginning of capitalism in England back to the thirteenth

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<sup>19</sup> Hallam 1981, p. 264.

century. Their view also draws support from the fact that not only did English monasteries show great money-mindedness,<sup>20</sup> but economic considerations had considerable significance in their practices of rule. The royal courts in England, for example, had to decide chiefly on titles of possession, whereas those in France had to decide claims of ruling competence.<sup>21</sup> In his book of 1928 on feudal land law (which had just been formally abolished), William S. Holdsworth maintained that in England lordship over land had already in the twelfth century become a kind of *property*.<sup>22</sup>

Characterisation of their possessing status is therefore more pertinent for the English nobility than for noble estates elsewhere. The most important precondition for this development – as Frederic W. Maitland and Marc Bloch both indicated – lay in the degree of generalisation of royal rule. Even before the Norman Conquest, the generalised taxation power of the Anglo-Danish kings demanded a certain degree of monetarisation (and thus commodity circulation). It was through the power of taxation that a part of the product of labour was defined as surplus production over self-sufficiency, and hence designed for the market. After the Conquest, the development of lordship in England was decisively limited by the fact that the kings not only claimed, but were in an actual position, to limit the lordship rights of their barons.

In England too, the armed force of the lords secured the maintenance of their control of land and the enforcement of their specific practice of rulership. Here, as elsewhere, jurisdiction over land became an instrument of appropriation through ruling power. Yet the power potential of English lords was limited in a specific fashion, and compared with conditions in the French kingdom and other feudal realms, the tendency was towards its reduction to a power of appropriation (i.e. to ‘economics’).

This was, on the one hand, because ‘honours’ generally consisted of widely scattered holdings. This territorial scattering of noble possessions can already be demonstrated for the Anglo-Saxon era,<sup>23</sup> and it was reinforced after the Norman Conquest by the king’s award of fiefs and in the twelfth century particularly by an extensive sub-infeudation. (By that time, not only were knights vassals of the barons, but some barons were also vassals of others.) On the

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<sup>20</sup> Matthew 1966, p. 251.

<sup>21</sup> Richardson and Sayles 1966, p. 40; Cronne 1970, p. 22.

<sup>22</sup> Holdsworth 1977, p. 22.

<sup>23</sup> Lennard 1959, p. 29.



one hand, the territorial scattering of possessions led, at least in individual holdings, to a standardisation of practices of rule even beyond local levels – a fact that Reginald Lennard points out.<sup>24</sup> It made a great deal of travelling necessary for administrative personnel, and made the monetarisation of dues more practicable in many cases. On the other hand, sub-infeudation made unitary jurisdiction harsher for all vassals of a baron. ‘Honour courts’ went into decline, without the crown having to make any great effort to get rid of them. Above all, however, the territorial scattering of possessions meant that scarcely any English barons (the Earl of Chester and the Marcher earls were exceptions) disposed of a general judicial power that transcended their economic power and fiefdoms. The king of England’s barons thus lacked the most important precondition for the development of an autonomous territorial rule.

The earls may well have received the ‘third penny’ of income from the royal courts in their earldoms, and there were even certain lords – religious ones in particular – as well as sheriffs who had acquired hundred and shire courts as vassals. These private lords of local courts profited from them fiscally in particular. It was rare for them to dispose of the privilege of ‘return of writs’, with which they could encroach on the jurisdiction of the royal sheriff.<sup>25</sup> In addition to such regular possession of judicial functions, many barons as well as other lords appropriated for themselves the ‘view of frankpledge’ (a power to be executed by a sheriff, through which members of a hundred were made liable for a criminal act by one of their number). The influencing of decisions of local courts by material means was also a current practice, likewise by the threat or use of armed force.

By and large, the might of the nobility in England under feudalism was already based on wealth and on influence at court. This wealth derived from both land and people. But it was usable for purposes of power politics only to the degree that it could be converted into goods and above all into money. To be a great lord in the twelfth and thirteenth centuries, wealth was not sufficient, even in England. To exercise power, however, it was indispensable, for nobles in England could not gain full private disposal of armed force

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<sup>24</sup> Lennard 1959, p. 34.

<sup>25</sup> Lennard 1959, pp. 36–8.

simply by 'feudal means', but only by way of distinct contracts and against payment.

Whilst the obligation of vassals for armed service in thirteenth-century France could still be invoked even for battles against the king, in England the vassal's duty could not even be translated into assistance in private matters. There were, naturally enough, *de facto* relations of obligation. For conflicts over ruling competence, however, it was not an incidental matter that the award of fiefs could not lawfully involve any other claim to armed service than that for the king.

Not only private armed force, but also private judicial power, remained restricted in England. In the first few decades after the Conquest, this limitation was essentially a matter of the king's own intentions. Only with the actual establishment of generalised royal jurisdiction was private appropriation of territorial rulership rights effectively ended, and private legal authority gradually limited to manorial courts.

Henry I (1100–35) already strengthened control over the sheriffs and thus the transformation of a rule that had previously been private in actual practice into a royal service. (This reduced the attractiveness of this office for great lords.) Under Henry II (1154–89), with the 'justices in eyre', royal supremacy over local jurisdiction was institutionalised. This marked the beginning of the development of common law, i.e. generalised royal justice. Since, however, English nobles could not even previously have considered local jurisdiction as a legitimate component of their lordship, the enforcement of generalised royal jurisdiction here did not mean a process of expropriation of a previously parcellised ruling power. H.G. Richardson and G.O. Sayles<sup>26</sup> stress this situation, and point to the fact that conflicts between king and nobles, which in other countries resulted from the centralisation efforts of the crown, were largely absent in England. Already at the end of the twelfth century in England, every free man could plead his cause before a royal court, even against his immediate lord.

Since the kings of England were powerful enough to largely prevent the spread of territorial noble rule, the might of the nobility was already dependent in the first hundred years after the Conquest on the size of tenancies

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<sup>26</sup> Richardson and Sayles 1963, p. 40.

and successful practices of appropriation.<sup>27</sup> This may have encouraged the systematic exploitation of landed estates that H.E. Hallam<sup>28</sup> has described in such detail, as well as the calculations of possession and market orientations that impressed Alan Macfarlane. This structural change was encouraged by a further peculiarity of English feudalism: the separation of a considerable number of the lords from the feudal forms of organisation of armed force. At the time of the occupation rule, lords were active warriors unless prevented by youth, sickness or old age. After the Conquest, there were no longer simply individual grants of tenure with obligations for armed service, as had been typical in 'old England'. The distribution of appropriation power over peasants rather became a component of the organisation of royal military power, and vice versa. Under the 'Norman settlement', the organisation of military power coincided with structures of tenure. A hundred years later, however, many lords, even if they bore the title of a knight or esquire, no longer rode to battle. They concentrated their efforts instead on appropriation through land. Some of them managed to excel royal barons in their standard of living.

Two structural conditions in particular promoted this shift in practices of appropriation among the knights of the English kingdom, and in their self-conception. The first resulted from the taxation power of the kings of England, which enabled them to hire practised warriors for the defence of the realm. The second structural precondition for this partial demilitarisation arose from the rising costs and growing professional demands of individual warriors. The Conqueror's army was itself largely composed of knights whose services had been hired for a specific time. Many of them were themselves rich lords, others lived in the households of such lords, or of the king, while others again received a tenancy from the king himself after the Conquest – or more commonly from a tenant-in-chief or a vassal of one. Many knights only possessed a very modest tenancy. They were poor, and enjoyed little respect. As the cost of equipping a knight rose in the twelfth century, settled warriors were often no longer in a position to arm themselves for campaigns. At the same time, the system of sub-infeudation developed so widely that land was often granted with the obligation to bear part of the cost of equipping a knight. Only one of a number of tenants then actually rode to battle,

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<sup>27</sup> Sanders 1956, p. 92.

<sup>28</sup> Hallam 1981.

or else several former warriors, now settled, hired one active knight to fulfil their obligations. The system of partial obligations, which grew increasingly complicated, encouraged the replacement of personal service by monetary payment. From 1100, the obligation of *scutage* became established, first of all especially for lords of the church.

This meant, however, that, within a few decades of the Conquest, a considerable change in the organisation of armed force had intervened, and equally in the social position of the knights. Whilst many descendants of the Conqueror's knights had become *vavassores* – i.e. in the established English sense of the word (different from the Norman), vassals of tenants-in-chief or of their vassals – who no longer rode to battle but confined themselves to appropriation from their possession of land, the standing of active knights conversely rose, once only the rich could afford to equip a knight and particularly when the church began to campaign for a 'holy war'. The size of knights' fees rose accordingly. From now on, the description 'knight' no longer meant someone who practised the military vocation, but rather someone rich enough to equip himself as a knight. Some descendants of these knights did become 'active knights', others were dubbed as knights without taking the field themselves, and others again rode to battle as esquires. There were also, however, lords who completely renounced any military title. In some cases, considerations of cost may have been significant, others however may have been influenced by the fact that the title of knight brought with it specific obligations, but scarcely any special privileges (see below).

As early as the twelfth century, one result of the demilitarisation of many knights was that substitutes were permitted in trial by battle. Such contests had since the Norman Conquest been not only part of land law, but also of criminal law. Whereas in the latter case they were fought to the death, in disputes over possession only sticks, fighting hammers and other weapons whose effects were in general not deadly were permitted. The contestants fought from morning to evening, and the one who had the disputed land in his possession did not need a victory in order to maintain his right, but had only to successfully defend himself. In the first decades after the Conquest, the parties still had to confront each other in person. In the twelfth century, however, substitutes were permitted in disputes over land. There was a regular guild of such champions. Many of the larger landowners even kept champions of their own in their households, for their frequent legal disputes, while others hired them as needed.

The 'possession' aspect of tenures, and the corresponding modes of behaviour of their lords, were particular characteristics of feudal relationships in England. They did not, however, mean the end of feudalism. Whilst money payments changed the form of personal obligations, they did not involve the abolition of these. Armed appropriation continued to be both materially important and culturally significant.

For a long time to come, the acquisition of land through marriage or purchase remained linked with the notion of conquest, and for several centuries a lord was addressed with the honorary title of esquire. Until the sixteenth century, the practice of 'rough wooing' persisted (admittedly somewhat rare), i.e. the acquisition of a bride and her dowry by force of arms. Only in the 1820s was trial by battle formally abolished – and even then not *expressis verbis*, but indirectly by way of administrative regulation.

### b.3. *Feudal generalisation of royal power*

The kings of England were very powerful in the Middle Ages. They disposed of a military and judicial power that extended to all free men in the land. The most important basis of their claim to rulership lay in the royal possession of land (in England itself and in the Angevin empire, which stretched from the Channel to the Pyrenees). Large parts of the country were granted by the kings as tenancies, others kept under their own administration. Certain areas were reserved for royal recreation in the form of hunting, their use in other ways being accordingly limited by special provisions. The royal monopoly of land underlay the reality of enfeoffment and – due to the material dependence of the nobility that followed from it – also the possibility for royal power to be generalised beyond the personal obligations of the tenants-in-chief.

The power of the kings of England was not subject to any *institutional* barriers. Justice remained the king's justice, and Henry VII (1485–1509) was still able, during the greater part of his reign, to rule England without having to call a parliament. (He thus refuted already the view of all those later constitutional historians who sought to shift the beginning of English constitutionalism back to the thirteenth century.) But the practice of royal rule was certainly subject to *de facto* (political) limitations. It presupposed the co-operation of barons, bishops and abbots. This required certain concessions to be made.

The burghers of the towns, for their part, due to the limitation of local noble power, lacked the room for manoeuvre against the king that had often been

present on the Continent. Though a number of towns managed to gain limited rights of self-administration, even London at the end of the thirteenth century could still be 'punished' by Richard II with the withdrawal of its freedoms – or at least threatened with this, and escape the penalty only by way of high payments, expensive hospitality and rich presents.<sup>29</sup>

In the course of time, there developed out of the actual framework of conditions for the exercise of royal rule, a concept of the proper legitimate extent of this and its appropriate forms. This concept was defined as a result of specific conflicts. These were determined in turn by both long-term and current changes in the possibilities of appropriation, by the prospects and course of armed struggles, by the policies of popes and bishops and by the purely personal characteristics of particular kings and magnates. We cannot enter here into the specific preconditions and course of these conflicts, even the dispute between Henry II and Thomas Becket, archbishop of Canterbury, or the barons' revolt that led to Magna Carta. Our analysis here is confined to the presentation of those developments by which the conditions of royal rule were structurally changed in the long run. This means in particular the regulation of the relationship between sacred and secular power, the fiscalisation of feudal authority, and the tendency to the *de facto* legal foundation of generalised sovereignty.

The relation between the ruling powers of king and bishops developed in a field of tension between the power politics of the papacy and royal feudal authority. The land monopoly of the English kings meant that every bishop had to be invested by the king with the regalia, i.e. the material basis of his power. In case of disloyalty, these could then be withdrawn.

Medieval kings needed consecration by the church to confirm the legitimacy of their rule. The excommunication of kings and princes by the pope, and the proclamation of interdicts (i.e. refusal of access to sites of salvation that were controlled by the church) might well be viewed by secular lords as a means of power politics, but this did not abolish their effect. On occasion, the popes did not succeed in binding local bishops to their verdicts, but no medieval king was able to reign against a majority of bishops and abbots in his own kingdom. In this way, a kind of competing practice formed in the

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<sup>29</sup> Barron 1971, pp. 173–201.

long run, though the two were mutually reinforcing. In England, the king was the dominant partner in this mutual relationship.

This is particularly clear in the practice of judicial power. In 'old England' there was still no separation between 'ecclesiastical' and 'royal' jurisdiction. Even after the Conquest, bishops still sat in the hundred and shire courts. But the Norman and Angevin kings reacted to the changed policy of the papacy. They countered the growing influence of the popes on the practice of episcopal rule with a division of ecclesiastical from general royal jurisdiction. The bishops, however, were involved in the latter in their capacity as vassals of the king of England. The competence of church courts was restricted in a manner that obstructed the use of these courts for ecclesiastical power politics. All questions of possession, i.e. even those affecting monasteries, were removed from the jurisdiction of church courts, and Becket failed in his attempt to withdraw clerics from secular jurisdiction. (The archbishop of York and most of the English bishops did not support Becket's demand.)

The 'constitution of Clarendon' (1164) gave formal expression to the division of powers that had already been *de facto* established. It corresponded to the underlying structure of relations between sacred and secular power in England. Owing to the generalisation of royal power, there was hardly a competitive situation between two rival claims here; the rather untypical conflict between Henry II and Becket is famous but somewhat deceptive.

Its feudal rule over the worldly goods of the church also enabled the English crown to settle the investiture conflict at an early date. In 1107, i.e. fifteen years before the Worms agreement and seventy years before Canossa, the pope was conceded the right of investiture and the church authorities the free choice of abbots, bishops and archbishops. Henry II was able to make these concessions because the lands of the ecclesiastical lords reverted to him at their death, and whilst the elective bodies of the church enjoyed formal freedom in their decisions, they could only meet with the agreement of the king. It was thus completely feasible for the crown to influence appointments in this way. Royal domination of the whole field of practices of rule was not altered when King John became a vassal of the pope and the Roman curia accordingly the highest court of the English kingdom. The king's power of enfeoffment limited the effect of this political decision.

By the generalisation of royal power, the involvement of the clergy in the royal judiciary steadily lost significance. Thus, when first Henry I and, later

in particular, Henry II strengthened royal jurisdiction vis-à-vis local courts, so that justice was unified under royal control, leading to the development of English common law as a structure distinct from both Roman and canon law, clerics lost their specialist authority on judicial matters (at the end of the twelfth century). There were still no trained justices in common law, but already at that time the king had advisers who did not belong to the church, yet were empowered to pronounce justice on his behalf. The beginnings of secular training on the one hand, and the institutional anchorage of royal power on the other, were preconditions for royal rule in this area becoming more independent of the church than it previously had been. The practice of judicial power by clerics was from now on confined to the church courts. These were not unimportant, but formed the most important institution for control of morals and thus of the regulation of the forms of social interaction.

By Henry I's time, at the latest, the kings made excessive use of their enfeoffment power.<sup>30</sup> They demanded horrendous sums for entry into an inheritance, and the 'aid' that they expected for sons to be dubbed as knights or daughters to be married likewise developed into a serious fiscal burden on tenancies. The increase in scutage was especially oppressive. This was originally supposed to be a part-payment or substitute for the obligation to equip a certain number of armed men for a certain number of days per year (this number has recently been a subject of debate, but is generally taken as thirty). Already under Henry I, however, and still more so under Henry II, the amounts demanded as scutage greatly exceeded traditional tenancy obligations.<sup>31</sup>

Under King John (1199–1216), both military misfortune and his conflict with the church offered the opportunity to demand a reduction in the burden of royal vassalage. New demands for money led the barons to demand a regulation of these charges. Their other demands for reform related to forest rights, which they likewise sought to withdraw from the arbitrary decision of the king.

Magna Carta did not involve any encroachment on royal sovereignty. It was however designed to regulate tenancy conditions, and thus prevent the differential treatment of individual barons. On the basis of the general structure of feudal law and the king's demand that his tenants-in-chief should accept

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<sup>30</sup> Bean 1968, p. 5.

<sup>31</sup> Keefe 1983, p. 37.



the same terms that they themselves demanded from their own vassals, the Charter promoted a general regulation of tenancy conditions. The structure of the conflict through which the Charter originated also characterised the subsequent rebellions of the nobility in the thirteenth and fourteenth centuries, which were fairly common. But apart from isolated attempts by the more autonomous Marcher earls, the aims of rebellious barons in England were never directed against the generalised royal power, simply against its specific exercise. The structure of competition between royal and noble rule, which is so often taken as a general characteristic of feudal 'societies', did not arise under the Norman and Angevin kings, owing to the generalisation of royal power. Instead, the sheer extent of the king's personal power provoked strategies that aimed at its regularisation. In so far as these were successful, they achieved a partial objectification of royal authority.

Corresponding tendencies also arose from these kings' twin rule over England and their possessions in 'France'. Their frequent absence made the appointment of regents necessary. Already in the Conqueror's day, the practice of a kind of substitution arose. As a rule, this was performed by a bishop. Henry I institutionalised this practice, appointing 'justiciars' for both England and Normandy; in his absence, these exercised part of the king's power of decision. If the king was present in the land, all competence reverted to him, and in royal writs the justiciars then appear as 'witnesses' to the king's will. After the loss of Normandy in 1234, the office of justiciar was abolished. In the late twelfth century, however, an administrative structure was introduced that further emancipated the rule of the crown from the direct personal practice of the king. One indication of this, by no means insignificant, is that critics in 1244 and 1258 demanded the reintroduction of a justiciar.<sup>32</sup>

The earliest limitation of royal arbitrariness arose from the need not to strain the loyalty of barons and bishops. At the same time, however, limits were imposed by the relative autonomy of those who served the king as instruments of his rule. Henry I in the early twelfth century had already chosen servants who did not stem from the nobility. At the end of the century, Henry II profited from his increased royal power and from the rise of secular education, which became a further precondition for the objectification of royal authority. The development of a regular apparatus of rulership with a specialisation of

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<sup>32</sup> Knowles, in Hearder and Loyn (eds.), 1974, p. 17.

tasks and partial division of competence (there was a kind of parallel organisation between the stationary 'household' and a travelling one that accompanied the king) was possible only because laymen had acquired the specialist knowledge at establishments open to them. Their services were subject to the king's will, but also to traditional justice and the demands of administration. In this way, and despite his personal authority, the king already stood in a certain respect 'under the law'. His arbitrary personal rule was limited by his own administration.

The advance of the concept of a continuity of royal rule stands in connection with these developments. In the late thirteenth century, the notion arose that the king's peace did not end with the death of the king. His successor became the new king not just on his coronation but at the moment of his predecessor's death.

Richardson and Sayle are right to maintain that many aspects of administrative development during the reign of Henry II had scarcely any equivalent in France until the seventeenth century. Their conclusion, however, that England already had an 'impersonal monarchy' (i.e. in the terms used here, an objectified royal power) as early as the twelfth century,<sup>33</sup> is overstated. For, although the dignity of the kings of England had already become a kind of institution, the successful exercise of rule still required the renown of the royal person. Kings won this renown by their courage, by success in battle and on occasion by their justice.

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<sup>33</sup> Richardson and Sayle 1963, p. 168.



## Chapter Two

# The *Ancien Régime* in England

### a. Establishment of the *ancien régime*

Neither the beginning nor the end of the *ancien régime* can be precisely fixed in English conditions. There are no specific events that mark such transitions. On the one hand, conditions of rule (and appropriation) were to a substantial degree objectified already under feudalism, while, on the other hand, personal structures for the organisation of rule still continued even under conditions of capitalist production and appropriation. The long duration of the *ancien régime* – more than half a millennium – is the most striking characteristic of the ‘English road’ from feudalism to bourgeois society.

The early beginning of the *ancien régime* – in comparison with other realms of Europe – resulted from conditions of rule that had been created by the Norman Conquest: the restriction of autonomous noble rule and the generalisation of royal rule. The – comparatively – late end of the *ancien régime* arose from the fact that the gradation from burgher to noble was never fixed by law, whilst the great nobles of England were able for a very long time to maintain their leading position in material terms. The period from the late twelfth century to the late nineteenth century saw many structural changes, and even a revolution in the seventeenth century. Yet, through all these changes, personal rule persisted – even if,

in course of time, this was increasingly objectified and in certain domains restricted. To emphasise this, I will abandon here the customary division into periods, and use instead the structural concept of the *ancien régime* – admittedly a high level of abstraction. (For the explanation of this concept, see Part Five, 2.) The establishment of the *ancien régime* involves the limitation of individual arbitrary rule, and a concomitant expansion and stabilisation of the power of the king and the estates.

#### a.1. *Partial objectification of structures of rule and appropriation*

The English system of enfeoffment is often described as an ‘institutional unity’. This means that, apart from the king, anyone possessing land was the tenant of someone else, and that whenever a group of tenants (in particular the tenants-in-chief vis-à-vis the king) achieved an easing of tenancy obligations for themselves, they had to expect similar demands from their own tenants. What appears in retrospect as an institutional unity was always produced in fact by a pressure from below. The overall structure of enfeoffment and the increasing legal regulation of it should not deceive us as to the far-reaching differences in the relations of rule that resulted from the possession of land. In one aspect of these relations, the structure of material conflict arose from competing interests in the division of the ‘surplus’ product extracted, while for the other and greater part, the issue was one of determining how the ‘surplus’ product was defined – in other words, how much of the proceeds of labour should fall to the share of the lords. What was at stake in these latter relations was not *competing* material interests, but rather *opposing* ones (i.e. class interests). This did not make either the lords or the peasants (or town-dwellers) into classes in the sense of collectively acting groups. But, within the conflict structures of feudal relations, class conflicts overlapped with conditions of development that were not those of economic competition. This does not contradict the thesis that results of power struggles marked the conditions of class-type conflicts. For the overall development arose not via the unity of an ‘institution’, but rather via the reciprocal influencing of the preconditions of struggles for rule and for appropriation, for personal freedom and reproduction possibilities.

*Objectification and partial dissolution of lordship*

For Alan Macfarlane, thirteenth-century England was 'a capitalist-market economy without factories',<sup>1</sup> as proof of which he refers to the presence of markets for both land and labour, to geographical and social mobility, to the considerable number of wage-workers, rational forms of administration (which he always understands in the sense of economically purposive rationality), and the presence of unrestricted private property in land.<sup>2</sup> Apart from this 'unrestricted' property in land, the other phenomena adduced by Macfarlane cannot be contested. But, in the thirteenth century, unfree peasants – and, in many districts, free peasants too – still performed *corvée* labour on manors, lords often bought and sold villeins on the 'labour market',<sup>3</sup> lawyers sought to fix decisively the boundary between 'freedom' and 'unfreedom', and many lords made use of their formal right to drive villeins from their land.

In the twelfth and thirteenth centuries, agricultural relations of exploitation in England were formalised. This was prompted first of all by the concerns of lawyers to bring into a rational legal system the many gradations between 'freedom' and 'unfreedom' that still persisted in the twelfth century, and assign each individual either to the *nativi* (of unfree birth) or the *liberi*.<sup>4</sup> This formal assignment of status was especially required so that all freemen (as well as those unfree men who were tied to the royal demesne) were afforded access to the royal courts. This legal classification of persons in no way set aside the many practical distinctions in the degree of freedom and unfreedom. There continued to be free peasants with the obligation of certain limited forms of labour service or even arbitrary money payment ('tallage'), just as there were on the other hand 'unfree' men who performed scarcely any labour service.

The division at this time was between those peasants who had access to the legal recourse of common law, and those others who were subject to the rule of their lords without any legal protection, in the context of the increase in labour services at the end of the twelfth century,<sup>5</sup> when the lords, under the incentive of rising grain prices, went over to cultivating their demesnes

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<sup>1</sup> Macfarlane 1978, p. 196.

<sup>2</sup> Macfarlane 1978, *passim*.

<sup>3</sup> Miller and Hatcher 1978, p. 113.

<sup>4</sup> Cf. Hilton 1965, pp. 3–5.

<sup>5</sup> Hilton 1965.

on their account and even marketing their own products. If labour services that had formerly been abolished were now once again demanded, and other services increased, this was basically a simple function of the power of the lord. Fixing the legal status of the villein's unfreedom, in the way that was done now, should be seen not as cause but rather as expression of the change in forms of cultivation<sup>6</sup> – likewise the simultaneous origin of common law.

The systematisation of demesne cultivation was also the context for formalising the administrative structures of the manor, and – what is documented from the mid-thirteenth century – setting down in written form all the services and performances that were the 'custom' on a particular manor. The fixing of custom in this way could offer a protection against additional demands, but it could also – just like the commutation of rent in kind into money payments – go together with an increase in exploitation. Above all, however, the fixing of custom – as R.M. Smith<sup>7</sup> made very clear – changed the character of the court of the manor. From now on, the establishment of custom did not require the involvement of those affected, but simply literate specialists. To a much greater extent than before, the manorial court thus became a place where the existing legal situation was recorded. The judicial power of the lords still formed a component of the practice of rule: but, while this power also concerned the 'peace' of the manor, it bore principally on appropriation. From the standpoint of common law, the lords' power of appropriation over the unfree – except for their murder or maiming – was unlimited. Villeins could be obliged to perform labour services, or to make payments in money or in kind, at the will of their lord; they could be driven from their land, sold with it, or (particularly for the sons of villeins) be obliged to settle on 'villein land'. Villeins had no right to possessions of their own, hence formally at least no possibility of inheriting anything. In practice, the will of the lord was everywhere limited by 'custom', or more precisely, the results of conflicts between peasants and their lords. The validity of custom was always endangered, but it formed none the less a practical yardstick for regulating the relations of exploitation. Considerable variation existed not just at a regional level, but often even from one manor to the next.

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<sup>6</sup> Hatcher 1981, p. 31.

<sup>7</sup> Smith 1983.

In sum, it can be said that, in the thirteenth century, part of the power of disposal that lords possessed over their villeins according to the common law was rather seldom practised – such as expulsion from the land or the withdrawal of the entire holding on the death of the villein. Tallage, likewise, was generally set at a fixed sum that was regularly levied. Another part of this power was transformed into a system of specific rent payments – comparable here with the fiscalisation of enfeoffment relations among the lords. Agreement to legal succession by annual payments to the lords was arrived at in this way: the marriage of a daughter away from the manor became possible by way of a certain payment, as likewise the sending of a son for education. There were lords who permitted their villeins to make testaments and, on the death of a villein, took only the best piece of cattle, rather than demanding the entire holding. Many villeins were allowed to acquire land – against payment – others even to sell ‘villein land’.

On the basis of such practices, the tendency was for unfreedom to amount to a particular burden laid on the tenure. This did not mean that determination of a person’s status in terms of rule was abolished, but it was reduced in its practical significance. All the more so when, despite all these burdens, it was not always the unfree who stood at the lowest point on the ladder of possession. For this reason, too, marriage between free and unfree was by no means unusual. Yet the many kinds of permission required could be refused, and the ‘entry fines’ that had to be paid for the land that a father held by right of custom to be transmitted to his son could be significantly increased. (As land prices rose, this was a frequent occurrence in the thirteenth century.) The transformation of labour services into money rent, at the lord’s initiative, also almost always occurred under the reservation of possible retroversion, and in the heyday of demesne cultivation such retroversion is documented on a considerable scale. It was not always the case that peasants contested the maintenance or even reintroduction of labour rent, as in particular circumstances this might well appear a lighter burden in comparison with money rent. In other cases, however, there was long and bitter resistance to the reintroduction of labour services. The outcome of these struggles was often decided by the size of the manor and the specific conditions of the lord’s judicial power there, as well as regionally. Lords who held large manors that were not too scattered (particularly monasteries) defended their power of disposal over villeins’ labour-power against peasant resistance in the areas where commodity



production was particularly developed, along with villein holdings and production regulations, not only in the thirteenth century but still in the fourteenth. Powerful lords even succeeded in the 1380s to largely make up for the economic effects of the Black Death by increased labour services.<sup>8</sup> On the other hand, however, there were manors already in the thirteenth century where not just rent in kind, but labour service as well, had been almost completely replaced by money payments, and many lords even let their villeins buy their freedom. (This often happened by way of middlemen, to whom the villein was sold so that he could then receive his freedom as a 'gift' – against unofficial payment. For, in the eyes of the law, villeins had no possessions that would have allowed them to buy their freedom.)

Money payments were especially widespread in the north and west of England – thus in areas where commodity production was least developed,<sup>9</sup> and it was the tenants of smaller manors who tended to be most well disposed to the emancipation of their villeins. On the one hand, the position of smaller lords vis-à-vis the peasants was often not strong enough to prevent their access to the market, the 'private' exploitation of their own livestock, the production of beer and other saleable goods. Many of the less well-endowed lords also depended for the cultivation of their demesne on the use of wage-labour, since their manor did not have enough peasants whose labour services would have sufficed.

In many regions of England, there were thus from the thirteenth century, alongside manors on which appropriation remained organised in feudal fashion – though these differed in the importance of rent in kind, income from permissions and 'incidents of tenure', judicial power and labour services, both from one region to another and from one manor to another – also manors whose holders had scarcely any other means of power over their peasants than the 'economic' one of their monopoly of land. With the rise in agricultural prices and land values, the abolition of villein tenures – whether under pressure from the peasants or because after the death of a villein who left no heirs, the lord transformed former villein land into free tenure – provided an opportunity to achieve high rents and short leases. While these brought freedom for the peasants to decide over their person and production, giving

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<sup>8</sup> Martin 1983, pp. 71, 91.

<sup>9</sup> Kosminsky 1956, pp. 174 ff.; Martin 1983, pp. 70 ff.

them, on the one hand, greater possibilities of appropriation and disposal over their holding, on the other hand it also involved the danger of a reduction or even loss of their land as a result of division of holdings, mishap or indebtedness. In particular economic conditions – precisely those that prevailed in the thirteenth and early fourteenth centuries – the abolition of customary tenure obligations also meant the loss of the protection that had been won as legitimate custom, and the effectiveness of which was constantly reproduced anew in conflicts between the lord and his customary tenants. The transition to freehold tenure meant the establishment of an individual economic relationship.

This gave new opportunities but also brought with it new dangers. It is no accident that, at the end of the Middle Ages, there were still manors on which peasant families held villein tenures, which were not very large but sufficient to feed a family. On the other hand, the differences in peasant holdings were particularly great where the number of free men was especially high. The abolition of villein tenures created a reservoir of people who were forced to work for wages, either for lords or for other peasants. (Many of the latter were villein tenants.)

Even before the legislation on working conditions of 1349, the obligation of all able-bodied inhabitants of a village to take part in the harvest was already established in local by-laws, and peasants who purchased labour-power for a wage had a common class interest with lords and other landholders in the fulfilment of these duties as well as in the application of the Statute of Labourers. This did not yet mean the abolition of the medieval peasant community that has often been cited, especially by Rodney Hilton. For the generalised royal power on the one hand, and the interests of lords and other landholders on the other, always bore within them new structures of conflict, in which – always with a few exceptions – peasants found themselves on one side and lords on the other.<sup>10</sup>

This is most clear in resistance to the taxation demands of the crown. As early as the 1330s and 40s, peasants put up resistance to centralised appropriation, in some cases successfully. The object of king and nobles at this time was to finance the costs of acquiring prestige and wealth on the Continent by shifting the burden on to the lower orders. The high point of resistance to this

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<sup>10</sup> Cf. Poos 1983, p. 50.

development was the uprising of 1381, which was provoked by an increased tax per capita.

### *Fiscalisation of tenancy*

The beginnings of fiscalisation stretch back to the twelfth century. This change in the form of rule, however, was only completed in the course of the thirteenth century. Fiefs became heritable, and the formalisation of enfeoffment, which was embarked upon with Magna Carta, was extended. Feudal dues – in so far as they could not be circumvented – became financial obligations. In the fourteenth and fifteenth centuries, the feudal organisation of military force was increasingly abolished. Services for the king were henceforth rendered for payment. For this last point see K. Bruce McFarlane, to whom we owe very precise investigations on the processes of objectification, the quintessence of the changes under way. McFarlane viewed these as so significant that he was no longer willing to see them as a variant of feudal relations. McFarlane's employment of the term 'bastard feudalism' – first used by Charles Plummer – remained essentially limited to relations among lords. He mentions the abolition of 'servile tenures' only in passing in a single paragraph.<sup>11</sup> His investigations therefore only bear on a limited aspect of the conditions that came to constitute the *ancien régime*, even if it is indeed a decisive one. The most important structural characteristics of the objectification of continuing relations of personal rule among lords will now be summarised as follows.

The first point to note is the persistence of heritable fiefs. The Conqueror and his two sons still refused these, but in the twelfth century the tenants-in-chief managed to achieve a *de facto* heritability. Along with this, however, they had to extend the same right to their own tenants. In formal terms, there was still no claim to heritability. Through to the seventeenth century, the new tenant had to pay homage in order to enter into the deceased's tenancy, along with the payment of 'relief' or 'livery'.

The heritability of tenancies did not ensure the continuity of baronial families, nor did it make the tenants-in-chief richer in the long run than their subordinates. Division of inheritance, the absence or early death of male heirs, economic ruin resulting from high ransom payments, and not least political miscalculation in connection with one of the repeated rebellions against the

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<sup>11</sup> McFarlane 1945, p. 162.

king or during the so-called 'anarchy' of the wars of succession in the mid-twelfth century, all contributed to the decline of baronial families. On the other hand, a systematic matrimonial policy pursued in the twelfth century gave rise to those kinship connections that Cronne described as 'feudo-dynastic structures',<sup>12</sup> thus stressing the growing importance of cross-connections among the barons vis-à-vis the connection between the vassal and his lord and king that was formerly alone decisive.

The fact that barons already complained in the twelfth century about the fiscal exploitation of tenancy renewals that they saw as unjustified, is shown by the coronation oath of Henry I in which he swore to put an end to these practices of his predecessors. But King John was still able in the early thirteenth century to compel his tenants-in-chief to draw up testaments that enabled him to end their tenancies on their death.<sup>13</sup> Magna Carta, the contemporary relevance of which has so often been overvalued in retrospect, represents a turning point in the development of the king's enfeoffment power in so far as from now on, the specific form of enfeoffment was no longer individually determined for each fief – according to the will of the king and the power of the vassal – but was rather made into a general rule, at least in respect to certain obligations of the vassals. Tenancy obligations that had already been monetarised before Magna Carta were formalised, all that was new was their general regulation.

What was established in 1215–16 and in the further course of the thirteenth century was the level of payments demanded of an heir when he entered into his father's tenancy ('relief'), the conditions of wardship over minors (which extended to all wardships that fell to the ward himself during this period), and the level of payments drawn from the eventual inheritance ('livery'). Already before Magna Carta, there had been individual 'charters of livery', but after this general regulation was imposed, the king lost the possibility of using an increased payment demand for entry into an inheritance (such as the level of 'relief' to be paid) as a means of political pressure against the barons. Although money payment was involved both before and after this formalisation, the general resistance of the barons now brought about for the first time

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<sup>12</sup> Cronne 1970, p. 136.

<sup>13</sup> Painter 1949, cited after Lander 1976, p. 295.

a depersonalisation of the tenure system and in this way also its first genuine fiscalisation.

The right to determine the marriage of vassals, and of their heirs and widows, likewise became an item of trade, but the power of disposal over marriage formed one of the most persistent components of personal rule. It was limited only in so far as no one could be forced to enter into marriage with someone of lower rank than themselves. But permission to remain single could also be refused, as could permission to marry a particular person. Feudal rule over marriage plans was indeed monetarised, but this did not immediately make permission to marry a commodity whose price was determined by supply and demand.

In 1275 the level of aid [*auxilium*] that had to be paid to the king in particular situations was fixed, such as the king's capture, the knighting of the vassal's eldest son or the marriage of his eldest daughter; and by the end of the thirteenth century the process of fiscalisation and regulation of feudal rule had essentially been completed. (An exception of *primer seisin* remained, i.e. the appropriation of income from a tenancy whose heir had not yet paid homage to the king.)

From the late thirteenth century until 1649, the fiscalised form of personal rule remained almost unchanged. Revenue from the inheritance of tenancies, however, almost disappeared in the course of time as a result of the devaluation of money. Simultaneously with their demand for the regulation of feudal relations, the tenants-in-chief and their own tenants also began in the thirteenth century practices to evade these dues.

One of the most widespread of these practices – made illegal by the Statute of Marlborough in 1267 – was the transfer of a tenancy to the heir in the tenant's lifetime, so as to avoid relief and wardship; another was sub-infeudation to the crown, which transferred the obligations and thus absolved the originating lord. He was also able through sub-infeudation to benefit from the income from reversions affecting his tenants. With the increase of sub-infeudation, it became ever more difficult for the crown to keep track of the services due and the persons owing these. In 1256, therefore, the alienation of baronies was banned. In practice, however, this remained possible, as licences could be purchased that permitted the sale of a barony. A licence of this kind (uniquely in this case without payment) was granted by Edward I (1272–1307) to all barons who were willing to accompany him in the war against his own

lord, the king of France. There also developed in the thirteenth century, as a practice of evading inheritance taxes, 'uses', a kind of trusteeship regulation. This replaced, for the barons who ventured to employ it, and especially for their own tenants, the conveyance of a fief to an heir in the tenant's lifetime, which had been banned in 1267. For by way of 'uses', the tenancy was not in the tenant's own possession at the time of his death, but in that of the trustee whom he had employed. These trustees gradually took on the role of executor; they settled debts on behalf of the deceased tenant, paid a daughter's dowry, or passed on to the widow a larger share than she was formally entitled to. They then conveyed the tenancy to the proper heirs, thus escaping all the transfer charges levied on decease. Since the king had forbidden his own tenants to transfer land, the crown did not initially interest itself in forbidding the practice of 'uses'. But once it was scarcely possible any more, for the purpose of financing wars and obtaining the barons' support for them, to avoid giving out licenses for the transfer of baronies, the crown also suffered considerable loss of income through these 'uses'. The first attempted use of trusteeship provisions was made, towards the end of the fourteenth century, in order to secure properties from forfeiture as punishment for treason, and to circumvent the ban on transferring land to the church that had been pronounced in 1217. (Since the church never 'died', the crown lost considerable income.) The 'escheators', officials who had been charged with investigating transfers among tenants-in-chief since the thirteenth century, were supposed to expose such practices. But it was only with the Tudors, who stepped up the fiscal exploitation of feudal rule so as to avoid the political risk of taxation, that a rigorous policy against 'uses' was applied. The Statute of Uses (1538) of Henry VIII, who after his break with Rome did not rely so pressingly on the support of Parliament, accepted 'uses' as legal, but from now on trustees were allowed to pass on tenancies only with the continuation of their obligations to the crown. The Tudors no longer needed to rely on the interpretation of the complicated pattern of tenancies by the escheators, investigating and administering their rights in the counties. From 1540, a special judicial and administrative authority, the court of Warde, was established for this purpose.

By the regulation and fiscalisation of feudal dues, opportunities for the tenants were expanded, and in particular, material provision for heirs was made easier. On the other hand, these provisions restricted the arbitrary power of the lords, while fiscalisation also expanded their room for manoeuvre. This

last point was particularly true for the king. For while the feudal system originally coincided with the organisational structure of royal military power, fiscalisation made the king less dependent, not on his barons as such, but at least on their direct readiness and actual ability to serve with weapons, and likewise that of their subordinates. Whether the monetarisation of obligations incumbent on tenancies was accepted or even promoted by the king is not the point at issue here. What is clear at all events is the factual connection between the development of a landed aristocracy and the change in the material and personal basis of generalised armed force.

The objectification of the organisation of armed force was begun with the introduction of scutage in the twelfth century. It was continued with the reduction of the quotas of armed men that the barons had to supply the king with in case of war. Edward I seems to have been the first to make agreements with a number of barons that they would serve him for a particular time in war, and place at his disposal – through sub-contracts – an agreed number of soldiers who would also be paid for. In this way, though formally the personal obligation incumbent on tenancy (or its fiscal replacement) continued, a new structure – contractual and thus objective – was created as the basis of military organisation. It was only for a transitional period that a few tenants-in-chief deemed it below their dignity to be paid for services that they owed the king on behalf of their tenancies. Subsequently they accepted payment from the royal exchequer, for themselves and for the knights they had provided for the king. As early as the thirteenth century, the richer barons maintained administrative officials to conduct such business with the crown.

1327 was the last time that the feudal host of England, i.e. the army raised on the basis of tenancy obligations, was summoned. Shortly after, scutage was abolished.

Even after the objectification of tenancy obligations, the great lords did not cease to view wars as enterprises of appropriation. And the victors, including the governments of England, continued for several centuries to hand out land to commanders who had been victorious on land or sea. But the lords' 'obligation' in warfare, from the fourteenth century on, resulted no longer from personal – i.e. feudal – structures of rule, but rather from conditions that they had to fulfil if they wanted to win the respect of their peers and the favour of the king. Feudal warfare thus made way for a service relationship with an estate characteristic.

### a.2. *Restructuring of personal power in forms of estate rule*

The kings of 'old England' drew support from the counsel and assistance of their earls and the bishops, the Norman-Angevin kings from that of their secular and religious vassals. These could thus justifiably expect a share in the material proceeds of royal rule. The conditions of this reciprocal promotion of appropriation and rule were worked out and laid down through repeated negotiations, armed conflicts, coronation oaths, the regulation of 'loans', and eventually in charters. In the thirteenth century it finally became clear that the king needed the support of a parliament in order to practise his rule. But kings continued to summon parliaments and their other counsellors as and when they thought fit. They dismissed them and decided whether their demands and advice was to be heeded or not. As against earlier theories of a constitutional limitation of late-medieval royal power in England, theories that could still be heard quite recently, McKenna has rightly emphasised that the answer to the question who ruled England at that time should unmistakably be: 'the king'.<sup>14</sup> The king's 'policy', however, as J.R. Lander has established,<sup>15</sup> consisted of the sum of personal relations between the crown and the 'aristocracy', i.e. that social stratum on which the king unavoidably relied for the maintenance of his rule.

From the fourteenth century on, the character of these relationships changed. Whereas it had previously been more a question of a sum of individual relationships – condensed occasionally into collective ones by way of rebellions and parliaments – these now acquired a generalised character. This (partial) de-individualisation of personal rule involved the development of 'estates', i.e. the sanctioning of the social status of particular individuals by generalised power. (On the relation between the concepts of estate and class, see Part One, 3.) This is already to say that the generalising of royal power was a structural precondition for the development of estates. The common characteristics of a social estate were determined in relation to royal power. It was royal power that formally sanctioned the possession of privileges, and thus at the same time exclusion from such possession.

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<sup>14</sup> McKenna 1979, p. 484.

<sup>15</sup> Lander 1976, p. 16.



An estate structure of this kind characterises all societies of the *ancien régime* type, including the *ancien régime* of England. But it is only with certain serious limitations that the sanctioning of membership of the lower nobility in England fell within the authority of the crown. This membership rather resulted from processes of social selection. Many historians past and present have thus formed the view that the English nobility comprised only those members of the ruling estates who had the right to a noble title, and possessed privileges that they had by right of birth. More recently, however, the idea has gained ground, represented also in this work, that the gentry should be seen as the specific form of a lower (or even secondary) nobility in England (see in particular M.L. Bush).<sup>16</sup> The change in concept is not incidental. If the gentry are interpreted as the lower nobility, this is aimed against the role that was long ascribed to them as a group bearing processes of embourgeoisement.

#### *Constitution of the high nobility*

The development of the noble estate and its privileges was the result of successful strategies by rich barons, of practices of rule pursued by the crown, and of demands from the non-noble members of the aristocracy and the lower estates. The latter were concerned either to participate in the privileges of the nobility or else to limit its power. Every characteristic of noble rule shows how privileges had to be won and defended, and under changed conditions of ruling practice had also to be either temporarily or permanently surrendered. This holds not simply for the period of decline of the *ancien régime*, but also for its development phase. The crown might well sanction the social status of persons, but the power of the nobility was not something granted, but rather won by individual and collective strategies.

Until the fourteenth century there was only one hereditary title in England, that of earl. In 'old England' the earls were a kind of viceroy, and even after the increase in power of the sheriffs in the eleventh century, they remained powerful part-rulers of the kingdom. After the Conquest, however, 'the dignity of an earl carried the mere shadow of its former power'.<sup>17</sup> Even if, as Cronne<sup>18</sup> believes, they were very important in the mid-twelfth century for the organi-

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<sup>16</sup> Bush 1984.

<sup>17</sup> Stenton 1962, pp. 231 ff.

<sup>18</sup> Cronne 1970, p. 138.

sation of armed force in their earldoms, this power may well be ascribed more to their wealth than to a claim based on their noble title. In the first place, the dignity of earl in England involved a material participation (the earls kept the third penny of the royal judicial profits in their earldoms). The honour and profit of the title were evidently great enough for the purchase of their loyalty to be useful to the throne. The handful of earls that there were at the start of the reign of Stephen of Blois had grown to twenty-three in 1261. By a systematic matrimonial policy, Edward I managed to return a considerable number of these earldoms into the possession of the royal family. Earldoms that had disappeared due to division of inheritance or the lack of male heirs were not reinstated. By the end of the thirteenth century, the number of earldoms had shrunk still further, but increased again in the fourteenth century.<sup>19</sup>

The barons of the eleventh to fourteenth centuries did not hold a hereditary title of nobility, but were simply possessors of a royal fief. This incurred specific obligations; they obtained particular influence only by their wealth and the favour of the king. When fiefs became *de facto* heritable, the obligations incumbent on a barony could also in certain circumstances devolve on women. The fact that possession of a baronial fief did not initially mean any particular gain in status is shown by the many lawsuits in which tenants sought to establish that their fief was not a barony.<sup>20</sup>

Only a few of the barons who forced King John to sign Magna Carta were the descendants of a *baro* who had accompanied William the Conqueror; and only a few of those who subsequently received a title of nobility from the crown in the fourteenth and fifteenth centuries stemmed from the barons of the time of Magna Carta. In 1327, at all events, only thirty-six out of a total of 210 families that held a barony stood in a continuous male line from 1066.<sup>21</sup> Families frequently died out, as male children failed to reach adulthood or died before they could produce male heirs. Plagues, feuds and wars threatened life, as did rebellions if they were not successful, while ransom demands could also jeopardise the position of families holding baronies.

Some of the barons were especially powerful. They did not have any formalised precedence, but were commonly distinguished from others by a

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<sup>19</sup> McFarlane 1973, pp. 248 ff.

<sup>20</sup> Sanders 1956, p. 3.

<sup>21</sup> Miller and Hatcher 1978, p. 169.

particular description (for example *majores*). In the early fourteenth century, i.e. during the reign of Edward I, these magnates, like the bishops, knew that the king would summon them to a council in the spring and autumn, and they also knew that after the death of the king they had the privilege (and obligation) to be present at the coronation of his successor. When Edward I started to depend more than his predecessors on the advice of specialist counsellors, he thus set indirect limits to the importance of these magnates, though these were abolished again in the conflicts with Edward II, not just temporarily but for a long time to come. The great barons drove the clergy out of the king's parliaments, and successfully staked their own claim not just to an express invitation to each parliament, but also to the initiation of legislation.

In 1322, Edward II prevailed once more against his 'peers'. He abolished some of the legal provisions decreed since 1310, and reduced Parliament again to a merely advisory function. With the deposition of Edward II in 1327, however, the participation of the high nobility in the crown's rule was secured. The peers now raised their assembly to the highest court in the kingdom, and at the same time won the privilege not just for themselves, but also for their eldest sons, to belong to this chamber. By establishing in this way a participation in the rule of the crown that though personal, was practised collectively as an estate, there arose the structural precondition, if not quite the functional necessity, for a second parliamentary chamber functioning as a channel for petitions. In the course of the fourteenth century, the Commons became a fixed component of parliaments.

Whereas under Edward I there was still the prospect that Parliament might develop into a specialist board (including possibly a *noblesse de robe*), the magnates in their conflicts with Edward II won their privilege to advise the king in Parliament as well as in the Privy Council, thus establishing themselves as an estate.

The significance of Parliament as the highest court in the kingdom was later suppressed, and the structure and function of the Privy Council underwent a change. Nonetheless, the power struggles of the first half of the fourteenth century set permanent limits to the development of a *noblesse de robe* as an autonomous power in the service of the crown against that of the 'old nobility'. The separation of the magnates or 'peers' as an estate distinct from the other barons was initially a process of collective appropriation of privileges. The granting of titles of nobility to certain barons who were not especially

powerful can thus be interpreted as an attempt by the crown to create within the peerage particular relations of loyalty, and in this way restore a room for manoeuvre that had been steadily restricted by the claim of the peers to participation in rule.

Noble titles were granted in England on the basis of particular services to the crown, indeed principally, as both K.B. McFarlane<sup>22</sup> and J.R. Lander<sup>23</sup> have stressed, for services to the king's rule in time of peace. As far as the introduction of the first new titles went, it is striking that the title of duke (generally bestowed on brothers of the king along with their own household) was introduced in 1337, when Edward III was only thirteen years old, and Richard II was also very young when the title of marquess was introduced in 1385, followed by that of baron in 1387. (This title, granted by letters patent, had nothing in common with the original *baro* except the name. Possession of a barony was certainly a favourable precondition for rise into the high nobility, but it was not an indication of membership of the nobility as such. Through to the fourteenth century 'barons' are often collectively mentioned, but as a rule what is meant is simply the tenants-in-chief.) When the title of viscount was created in 1440, Henry VI was already adult, but his complete inability to rule had already become clear. The coincidence in time between the introduction of new noble titles and a weak personal rule of the king did not however mean that the practice of ennoblement had completely fallen into the power of the high nobility. The king's room for manoeuvre in this sphere was just as great, and just as restricted, as in all other domains of his personal rule.

The English nobles received personal invitation to the king's parliaments; they enjoyed the privilege that only their peers could sit in judgement over them; they could declare their income to the tax authorities on oath (though they were not free from tax); and if they entered a town unannounced, the ban on baking bread on Sundays could be broken on their account. They did not however receive formalised ruling competences. In particular, none of the English nobles had the right to practice 'blood jurisdiction', which in France and elsewhere on the Continent documented membership of the high nobility in the fourteenth and fifteenth centuries. There certainly emerged right away – laid down in *courtoisie* books – behavioural requirements that nobles placed

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<sup>22</sup> McFarlane 1973, p. 276.

<sup>23</sup> Lander 1976, p. 15.

on themselves and their peers, by which they distinguished themselves from others. Practices of this kind, however, were not sufficient to impress the Venetian ambassadors to the English court. These reported in 1497 that there were no real nobles in England, but only rich landowners.<sup>24</sup>

Appearances were deceptive. The nobles of the English *ancien régime* were as a general rule not only rich, but also strong. Their strength, however, was constituted differently from that of most of their contemporary Continental counterparts. Whereas the latter defended their competences in potential competition with a crown that pressed to generalise its own power, English nobles could never exercise their rule except in connection with the generalising power of the crown. Since the actual reach of their strength outside their own possessions was based above all on the fact that they shared in the power of the king (through military undertakings, offices and patronage), English nobles had no interest in a weak king. The rebellions of English nobles, therefore, with only few exceptions, did not take the form of a Fronde.

Such rebellions did not seek to restrict the generalised power of the crown. Even if kings were temporarily subjected to baronial supremacy or deposed, the nobles' demands were directed not against the extent of royal power, but rather against the incapacity or abusive practice of a particular king. Precisely because in England the monarchs had such a high degree of power at their disposal, the nobles who stood in their service were dependent on the kings' personal rule serving the nobles' interest. On several occasions, K.B. McFarlane and J.R. Lander have particularly stressed how belatedly most of the English barons rallied to the Yorkist cause (when Richard of York expanded the dispute with Henry VI into a dynastic question). Only the weakness of the crown during the long years of Henry VI's minority, and the expectation of further decades of a weak rule when it became clear that Henry VI was not up to his high office, led in their view to the outbreak of the Wars of the Roses.

On the other hand, the kings were also aware that most of the powerful lords of the land were ready to collaborate with them. For – leaving aside their own household, the *familia regis* – they lacked their own armed force. Whenever they wanted to make war, they were dependent for this on the

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<sup>24</sup> Cited by Lander 1976, p. 16.

organisational support of the nobility for the procurement of soldiers and money.

But it was not only for the prosecution of campaigns, but also for maintaining the king's peace in the counties, that the support of the high nobility was indispensable. For however large the 'affinities' of the lords, i.e. all those men of low or higher place who stood either permanently or temporarily in the service of a noble and disturbed order by their acts of force, there was not yet in the fourteenth and fifteenth centuries any power that could successfully have controlled even the lands of the crown without the support of the powerful nobles.

Thus because in the context of the generalised personal power of the crown the king's individual room for manoeuvre was restricted, so that he needed the support of the nobles to maintain his rule, the nobles for their part were in a position to determine to a very far-reaching extent what would be taken as the requirements of the English kingdom. In this way, the practice of generalised royal rule was instrumentalised to a considerable degree for the practices of rule and appropriation of the high nobility. In so far as such strategies were successful, specific forms of practice of noble rule became characteristic of the generalised royal rule. The regulation of their practice in connection with this generalised royal rule will be explained below.

From the fourteenth to the seventeenth century, the high nobility regularly comprised some fifty to sixty families. In many respects, their material interests coincided with those of other lords and landholders. This is true for appropriation on the basis of possession of land, and in part also for the exploitation of labour-power that was not tied to possession of land. In the wake of the regulation of royal enfeoffment, feudal practices were also generally regulated, at least to a degree. For all feudal lords except the king, any regulation of this kind had a dual significance, strengthening their position either as tenant or as lord. If the rights of lords became fixed in law, and hence sanctioned by royal power, this gave tenants the opportunity to develop strategies to evade the reversion of tenures.

The practical effect of a particular regulation cannot simply be deduced from its wording. Thus the Statute of Marlborough, which in 1267 forbade the conveyance of tenures by a tenant to his heirs in his lifetime, would seem to have been promulgated in the interest of the tenants-in-chief, as these could not at this time permit such a practice of circumvention without angering

their own royal lord. In 1536, on the other hand, the great lords could count on the profit that they expected from legalising the practice of 'uses' (see above) to exceed the losses that they had to accept as lords. The generalisation of the material interests of all feudal lords thus did not automatically mean that the profit from generalised legal regulation would be equally divided.

There were also generalised interests in relation to exploitation of rule over land. On the whole, however, exploitation strategies were pursued separately in each particular manor.

From the thirteenth century, and especially with the expansion and self-cultivation of demesnes, nobles increasingly kept specialist personnel. Magnates employed stewards, generally one for the household and one or more for the management of their possessions.<sup>25</sup> Reeves and bailiffs worked under their supervision, administering a manor and collecting money due to its noble proprietor. Part of the administrative apparatus of the noble households was disbanded in the fourteenth century when demesnes were in many cases once again leased to peasant cultivation or farmed out. At the same time, the practice of management became more formalised, and local representatives of the lord now wore his livery (see below). Dorothea Oschinsky assumes that these specialists were the readers of treatises on the art of managing landed estates that were published in the thirteenth century.<sup>26</sup> This does not mean that their advice was actually followed. At all events, A.R. Bridbury warns with very persuasive arguments against assuming a general implementation of managerial practice.<sup>27</sup>

Alongside this, there were also practical and institutional generalisations of the lords' interests. In the shire courts, for instance, both noble and non-noble were represented, and often found common cause. In the case of peasant resistance, such commonality stemmed from class position rather than estate. The deployment of the armed force of the king against rebellious peasants also did not serve exclusively the high nobility, but all who appropriated the results of peasant labour.

The transfer to the crown of the forcible sanctioning of relations of exploitation had already advanced very far by the end of the fourteenth century. As

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<sup>25</sup> Denholm-Young 1963, p. 27.

<sup>26</sup> Oschinsky 1956, pp. 296–309.

<sup>27</sup> Bridbury 1975, p. xiii.

J.A. Tuck has shown, this can be seen very well in the behaviour of the nobles during the great peasant uprising of 1381: the frequently repeated contention that the English nobility of this time failed to challenge the rebels out of fear derives from a partisan account praising the particular services of Bishop Despenser, and subsequent misinterpretation in research. The bishop's 'great deed' was that he faced the rebels not just with armed force but also with summary judgements and executions.<sup>28</sup> The nobles as a whole were waiting for instructions from the king before they resorted to force. The 'special courage' of the bishop consisted in his independent organisation of armed force, and especially his usurping of judicial power. If other members of the high nobility refrained from this, it was partly due to the fact that they were not present in the regions affected by the uprising, but either on their own lands or on the Continent. The less powerful nobles and other lords, however, followed the lead of the crown in organising armed force. They received payment for their service in the army that was then summoned to put down the uprising. The regular organisational form of an army convened by the sheriff at the demand of the crown, as well as the payment of its members, made armed class struggle an activity in the service of the crown both in its form and its content.

The Statute of Labourers, likewise, which in 1351 (closely following the Ordinance of Labourers that had already been decreed by the Privy Council in 1349) regulated the obligation to work and the limitation of wages, corresponded to the general interest of those who possessed the power of exploitation, and after the outbreak of the Black Death had trouble finding sufficient labour-power at low wages.

The interest of exploitation codified in the labour legislation of the fourteenth century, however, did not just embrace the high and lower nobles, but as L.R. Poos<sup>29</sup> has shown, also well-to-do peasants. In practice, these latter made use of the opportunities opened up for them by the labour legislation to obtain poor villagers as labour-power by means of statutory obligation.<sup>30</sup> These peasants, however, who shared an interest with the noble lords in cheap labour-power, often themselves paid rent for their land. The sons and

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<sup>28</sup> Tuck 1971, p. 4.

<sup>29</sup> Poos 1983.

<sup>30</sup> Poos 1983, p. 36.



grandsons of those who made use of the Statute of Labourers for their own ends might well have been among the men of 1381 who attacked judges and marched as rebels on London to speak with the king.

But even among those who did not work with their hands, the possibilities for developing common class interests were restricted. For, in the fourteenth and fifteenth centuries, the appropriation strategies of great and lesser nobles were not only different but competing.

As distinct from the lower nobles, war for the great nobles remained a materially important and culturally dominant form of reproduction of their social status. The fact that the earls, marquesses, viscounts and barons were paid from the royal treasury when they went to war did not change the fact that it was not only wealth that they hoped to win there but also fame and the favour of the king. Nobles provided the king with soldiers who were paid from his funds. They themselves received payment for their war service, on occasion also ransom money from released enemy prisoners, and offices and fiefs in occupied territories. It was not just nobles who crossed to the Continent for money and land; for many men of less elevated status military action could also prove materially rewarding. The lucrative offices, however, that permitted the squeezing of the conquered population in grand style, generally remained confined to the high nobility, just like the greatest landholdings. If the rewards of this 'early effort of colonialism'<sup>31</sup> thus remained reserved above all to the nobility – and especially to the highest of these –, the whole kingdom participated in the costs of the operation, not to mention the conquered population, who had to bear the main burden.

Because the nobles felt obliged to endow pious foundations for the sake of their salvation, the church received part of its costs back in this way. This does not mean, however, that the lower clergy, on whom the fiscal demands were greatest, acquired better livings, or that all monasteries acquired new churches or hospitals.

The contradictory interests of the greater and lesser nobles became especially visible in the 1380s. This arose from the financing of war on the Continent. Both in England and 'France', the war that came to be known in the history books as the Hundred Years War was paid for chiefly by indirect taxes. In England, Parliament granted additional customs and excise duties,

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<sup>31</sup> McFarlane 1962, p. 10.

the costs of which were borne, according to McFarlane, chiefly by Continental purchasers.<sup>32</sup>

From the reign of Edward III (1327–77), regular subsidies were demanded to finance the war. From 1334, the mode of raising these was changed. Agents of the king now dealt directly with local communities, from which they demanded specific sums. The apportioning of these was left to the communities involved – thus offering the occasion for local favours, disfavours and conflicts.<sup>33</sup> In 1380, protests broke out, and in 1381 an uprising against the Poll Tax. This great rebellion is not our subject here, but it is significant that the Commons, i.e. the representatives of the gentry and the towns, refused in 1382 and subsequent parliaments to grant a new poll tax. Since the war was not fought in England itself, the question of defence did not arise. In view of the continuing ‘unrest’ among the population after the Peasants’ Revolt, the crown’s possessions on the Continent ceased to be of interest to the gentry and urban burgesses. Many historians today see one of the most decisive effects of the Revolt of 1381 as the introduction of a situation that challenged the balance of interests in this way.<sup>34</sup>

In the last phase of the war, after the English crown had once more rejected a peace offer in 1439, the readiness for further military effort declined even among the higher nobility. Only those magnates most closely tied to the court and the preservation of their possessions insisted on continuing the long war for a further decade despite the defeats that had been suffered.

The nobility’s armed appropriation led by the king did not come to an end with the Hundred Years War. Henry VIII (1509–47) still resorted to this medieval practice, using the confiscated wealth of the English church. Subsequently, when wars had again to be financed by taxation, there was only one further deployment of armed force that did not have the consent of the Commons. A decisive difference between the reproduction conditions of the greater and lesser nobles was thus abolished. In this way, the structural possibilities for the formation of class-based interests grew.

With the ending of war as a dominant cultural form of the high nobility, ‘livery and maintenance’ also came to an end, and with it those social forms

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<sup>32</sup> McFarlane 1962, pp. 3–17.

<sup>33</sup> Allmand 1988, p. 105; Hilton 1979, p. 147.

<sup>34</sup> Tuck 1971, p. 19.

through which the high nobility's practice of rule differed from that of the less elevated lords. Livery was the fitting-out of persons who stood permanently or temporarily in the service of a lord. Those who wore a lord's 'coat' formed his 'affinity', and if he entered a town in state or came to court, if he rode to battle or to a feud, the armed members of his affinity formed his retinue, giving expression and force to his rule. The affinity stretched from the cook to the physician, it could include administrators and lawyers, the armed men living in lord's household, even royal judges and neighbouring lords. Many affinities – such as the retinue of a noble court based on contractual relations – comprised only a dozen or two individuals. Great lords, on the other hand, might have two hundred men in their service, including knights, baronets and barons, many of whom would be the lord's tenants.

The affinity was an expression and instrument of noble rule. But it also served the interests of its members. Deployment of the 'maintenance' for their protection meant both legal and especially extra-legal pursuit of their interests before the courts. Livery and maintenance existed long before the fourteenth century, as J.M.W. Bean<sup>35</sup> and J.O. Prestwich<sup>36</sup> have shown. But it was only in this period that frequent complaints arose about it, and the expression even became a critical byword for noble practice.

To assess the importance of livery and maintenance for the development of ruling interests in late medieval England, it is necessary to bear in mind that the power of the medieval barons, just as later of the great nobles, was based only in part on legally formalised authority, but had rather to be re-acquired time and again with the help of money, clever policies in the counties, and above all strategies at court. Since the English nobles could not oblige their vassals to stand armed at their disposal for private feuds, they established obligations to participate in these by private contractual relationships. The same applies to the instrumentalising of judicial power. Since it was only in exceptional cases that nobles possessed sufficient power over the manorial courts, the deployment of judicial power in their favour (and that of their affinity) was also effected by money. These monetarised structures developed long before the fourteenth century, i.e. before the period that K.B. McFarlane diagnosed as the beginning of 'bastard feudalism', and they persisted even

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<sup>35</sup> Bean 1972, pp. 117 ff.

<sup>36</sup> Prestwich 1981, pp. 8–12.

beyond the end of the sixteenth century – with considerable change in the meantime, though this can only be of marginal interest to us here. It is clear however that the basis for the power politics of the English nobles was neither their position as tenants-in-chief nor mere membership of the nobility, but that specific practices of rule were required for this which cost money – indeed, a great deal of money.

Because a considerable portion of the gentry belonged to the affinities of the great nobles, members of the lesser nobility also profited in this way from such practices of rule. The lesser nobles' critique of livery and maintenance was therefore contradictory, and confined to partial aspects. But the conflicts that were regularly provoked by these practices of the magnates formed barriers against a comprehensive participation of the nobility as an estate in the generalised power. The dissolution of these is therefore of fundamental importance for the development of the *ancien régime* in England.

The various aspects of livery and maintenance will accordingly be sketched out as follows. There was little material for political conflict bound up with the already mentioned development of administrative structures for the profitable cultivation of estates. This corresponded to a high degree with practices developed by the crown. Thus, in the thirteenth century, every 'typical magnate'<sup>37</sup> had a council that would advise him on such questions as the management of his possessions, petitioning for the acquisition of wardships and marriages, his own matrimonial strategies and his relationships with other nobles in England and abroad. Represented in these councils would be specialist members of the household, as well as other noble and non-noble landowners. The size of the administrative establishment serving a noble tended to rise from the thirteenth century on (see above). Many stewards themselves had one or more manor in their possession. Their administrative experience soon made them therefore into a preferred group from whom the royal sheriffs and the judges of shire courts were appointed.<sup>38</sup> The possessions of the magnates thus acted as training grounds for the personnel of the royal government. Nobles were often rewarded – at their express petition (see below) – by a royal office being granted to one of their faithful servants. On the other hand, however, the crown – since it no longer made use primarily of the clergy

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<sup>37</sup> Denholm-Young 1963, p. 27.

<sup>38</sup> Denholm-Young 1963, pp. 69, 162.

for this purpose – could not refuse, in its own interest, to resort to personnel trained on the nobles' possessions. This process gave rise to a structure of estate reproduction of noble influence on royal administrative and judicial power.

In the mid-thirteenth century, if at first only in isolated cases, legal scholars appeared in the households of abbots, bishops and secular magnates, while royal judges sat on the councils of these lords. Maddicott, to whom we owe a detailed investigation of the connection between lordship and judicial power, ascribes this development to the fact that the stricter control of the crown over the obligations and privileges of the nobles made them feel the need for such legal assistance. At the same time, the employment of lawyers and the advice of judges also made it easier to successfully resolve those disputes over possession that were a permanent feature of the management of dispersed holdings. The particular structures of common law already made procedures of this kind unavoidable, and they were often very drawn-out. In order to obtain favourable decisions it was particularly desirable to ensure the goodwill of the judges, especially those of the highest royal court, the King's Bench (the court *de banco*), which had jurisdiction over such disputes.

During the twelfth century, *ad hoc* payments to judges were made, and in the thirteenth century it became the custom for magnates to engage members of this court as regular legal advisors and members of their own councils. As Maddicott<sup>39</sup> has shown, this was nothing secret, but took place with the full knowledge of the crown. In view of the fact that, in the thirteenth century, the number of materially endowed clerics among the judges declined, and the 'salaries' of royal judges were low, these counselling fees were almost a regular source of income – so lucrative, indeed, that in the fourteenth century the judges at the highest royal courts had themselves become large landowners and thus no longer stood simply in a contractual relationship with the other magnates, but were also connected to them socially. At the same time however – and it is this aspect of the social rise of the judges that concerns us here – criticism of the practice of royal courts also grew. Yet there were only two cases – in 1289–90 and 1340–41, and temporarily at that – when judges were dismissed from office on grounds of corruption. The senior judges were

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<sup>39</sup> Maddicott 1978, p. 9.

protected from charges of corruption because neither the crown nor the lords could dispense with their specialist knowledge.

In 1346, however, judges were forbidden to accept fees for legal advice, or to wear the livery of nobles. It is significant that their payment by the crown was at the same time increased. In the same year, too, the crown proclaimed that judges had to pronounce the same law towards both rich and poor.<sup>40</sup> This instruction, however, was followed neither at that time nor later. Since it had many supporters in the regions, this ban on payment to judges seems to have had a certain effect at the time. The – demonstrable – acceptance of fees by judges seems to have come to an end in the mid-fourteenth century. This very likely became possible, as Maddicott holds, not least because the connections between senior judges and the nobility were no longer shaped so much in terms of pure business, but far more now on the basis of reciprocal invitations, friendships and marriage connections.<sup>41</sup> The structure of influence that came into being in this way did not overstep the limit between permissible and impermissible forms of influence that had been established in the course of the fourteenth century on the basis of the criticism of the Commons on the one hand, and the policy of the crown on the other. It was nonetheless, as Christine Carpenter has shown,<sup>42</sup> still a matter of rather flexible limits. For, although the Commons complained time and again throughout the fourteenth century of corrupt judicial practices, and eventually with a certain success, they petitioned in 1427 on the other hand for the judges of the assize courts to be made known in advance, so that the parties to a conflict would have the opportunity to inform them of their rights and claims.<sup>43</sup>

Neither the Commons, nor those who petitioned them, were great champions of legalistic structures. They were rather of the view, just like the great nobles, that the king should stand under his own law – as set down in Magna Carta (not excluding the possibility of decisions based on equity in particular cases). They also criticised the many pardons that the crown used to sell to the magnates for large sums, if their retainers had been condemned. The Commons' demand for non-partisan judicial practice, however, was limited by a concern not to be deprived of their own privileges. It was only the special

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<sup>40</sup> Cited after Maddicott 1978, p. 4.

<sup>41</sup> Maddicott 1978, p. 55.

<sup>42</sup> Carpenter 1983, p. 215.

<sup>43</sup> Carpenter 1983.

privileges of the great nobles that were to be trimmed. The Commons themselves made considerable progress in tying their private interests into the royal judicial power (something we shall return to later), when they appropriated local judicial power – acting collectively as an estate. The possibilities of influence that the magnates had over the highest courts remained greater even after the end of the fourteenth century than those of the lesser nobility. But the special forms of noble rule over judicial power were by that time largely abolished.

The focus of conflict over the ruling practices of the great nobles was the maintenance of armed retinues. These were comprised of members of the noble's household, as well as those armed men who were available for particular purposes or could be newly acquired. The nobles' retainers included many of their tenants, who could not escape the demand of their lords and indeed would not wish to do so. But the retainers also included many knights – some of them even from abroad – who had made a career out of warfare and served a lord for a particular period. In the fourteenth century, scarcely anyone contested the great lords' right to a retinue as such, but the Commons demanded that the crown should cease to sell pardons for these coarse warriors, and that condemnations in court for misconduct should not be avoided by appeal to 'maintenance'. At the end of the fourteenth century they finally managed to establish that no one who below the rank of baronet should be able to offer livery, and that in future this should be confined to servants of a noble household and such administrators and advisors who performed lifetime service. The engagement of armed retainers, however, was not forbidden. Only in 1388 did the Commons decide for the first time on a regulation of this kind. Its occurrence was due to the particular conditions of the conflict over the practices of Richard II. At the end of the fourteenth century, however, the ineffectiveness of such a ban was predictable in advance. Because the crown's great formal powers were combined with a very weak ability to implement these, there was scarcely any other possibility of securing peace in the regions than that of handing the nobles control of peace (and, at the same time, therefore, control over their own armed retainers).

Despite a steadily growing criticism of the nobility's private possession of armed force, in the second half of the fifteenth century this reached a new height. For, in the period of the Wars of the Roses, almost every landholder had to seek to bind himself more closely to a lord, so as to be protected by one of the contending parties or at least be shielded from attack.

It was long taken for established fact in the writing of English history that the old high nobility had exterminated one another in the Wars of the Roses, and a 'new nobility' was then constituted by the Tudors. More recently, however, it has come to be recognised that there was always a great fluctuation in membership of the high nobility in the period from the fourteenth to the first third of the seventeenth century, whether this was due to a failure of biological reproduction, or to executions – as in the reign of Richard II (1377–99).

Much blood was certainly spilled in the Wars of the Roses. But if the great nobles of England were not particularly peace-loving, either before or after this time, whatever Tudor propagandists liked to say, conflicts over the succession to the throne were not marked in England by a degree of violence unknown elsewhere. On the other hand, the participation of the great nobles in the material proceeds of the generalised power of the crown in the fifteenth century, if not a new component in the reproduction of their dominant position, was one that had in the meantime become indispensable. Particularly important was their participation in the crown's power of patronage, which allowed them – as we shall see in detail later on – to provide for the members of their affinity without additional costs, and in this way maintain their service. This does not explain the outbreak of the Wars of the Roses, but it does explain a fact of more significance for the present investigation, i.e. that once these had broken out, armed conflict for the throne necessarily became a bitter struggle for the preservation or restriction of access to the patronage power of the crown.

In the war between the houses of Lancaster and York, the issue was the possession of royal sovereignty. Most of the nobles hesitated for a long while before letting themselves get entangled in this conflict. But because the great nobles of England needed material participation in an well-ordered sovereignty, in order to draw income from office for themselves, but more particularly for their relations, friends and retainers, two-thirds of the great nobles were drawn into the struggles of 1455–85. In the process, prospects of better reward, or simply victory, caused not only retainers to change sides quite regularly, but many nobles as well.

The Wars of the Roses were distinguished from previous armed conflicts over possession of the crown especially by their long-term effects. For, in the late fifteenth century, the costs and risks of a policy of armed force had risen enormously: the costs above all by developments in military art, the risks by



the destruction of properties as well as their loss through legal judgement. The power of the first Tudor monarch – highly precarious as it was – rested on this experience. For the whole of his reign (though this was not continued by his successor), Henry VII banned the maintenance of private noble forces, and by demanding high sums of money as security for good behaviour he placed the great nobles under a control that was previously unknown.

Private possession of armed force, however, lasted beyond the end of the Wars of the Roses. In order to properly represent his rank and turn it to advantage, a great noble in England of this time still needed an armed retinue. Under the first two Tudor monarchs, therefore, the crown gave licences for the engagement of retainers – as a token of its esteem. Even those who were not able to maintain a retinue were unwilling simply to abandon this right. It was only at the end of the sixteenth century that the size and number of retinues both legal and illegal finally dwindled, and the possession and maintenance of private armed forces ceased to be a necessary constituent of the rule of the great nobles. This development required both the strengthened rule of the king and alternative strategies of power.

One practice characteristic of all societies of the *ancien-régime* type was participation in generalised power in the form of office holding. There were two forms this could take: the demand of great nobles to be entrusted themselves with important and lucrative offices, and the expectation that their recommendations would be followed in terms of appointments. The bestowal and negotiation of power of office came to be (later) described as patronage. Under the *ancien régime*, the clever use of patronage was the most important means for the crown to secure the assent of the nobility to its political strategies. The nobles, for their part, made use of patronage to maintain the goodwill of their relations and dependents, and in this way increase their own political influence.

As far as the king's officers were concerned, there is first of all a distinction to be made between sinecures, i.e. offices that were sought for the sake of profit and whose duties the office-holder could have performed by a substitute (these included the numerous administrators of feudal rights such as wardship and marriage, as well as the offices of burgrave, overseer of woods and parks, collector of the king's rents, etc.), and those offices which – unless they were corruptly used – did not yield an immediate profit, but did bring with them influence and respect (in particular, the office of Justice of the

Peace, and from the fourteenth century on also that of sheriff, which was now an annual appointment). There were offices in the king's household that provided maintenance and a – generally low – salary. The holders of the more important offices, therefore, sought to gain at least one of the more profitable offices as an additional reward. Whereas sinecures were often granted or exercised for life, the duration of positions relating to the king's government was dependent on the king's pleasure [*bene placito*].

We have to omit here further details of the system of offices that steadily developed, but some particulars are highly important in the present connection. First of all, in the late Middle Ages, the sale of offices by the crown came to an end: this equally made impossible the privatisation of power of office that was characteristic of the *ancien régime* in France. This did not mean that life-long profit was not drawn from office, nor that dynasties of office-holders did not develop in important positions.<sup>44</sup> It also does not mean that there was no trade in offices in England. From the Lancastrians through to the Stuarts, influential courtiers and those willing to pay managed to help themselves to offices and substantial rewards. (Outstanding examples of the extraction of large-scale bribes were the Duke of Suffolk in the reign of Henry VI and the Duke of Buckingham in the reign of James I.)

For the ruling practice of the crown, this illegal trade was precarious, since it curtailed the possibility of using patronage politically. The crown may well have been legally free to bestow offices, but it was not politically free to do so. Its own faithful servants had to be able to rely on being rewarded in this way. Through to the fifteenth century, as R.L. Storey has shown, there is a great deal of evidence that administrative specialists were appointed bishops, abbots and cathedral prebendaries. A precondition for such a low-cost personnel policy, however, was that the beneficiaries here were clerics – a situation that had virtually ceased to be the case for judges by the fourteenth century, and in the fifteenth century also for other officials of the king. This meant, as Storey points out, that the crown could rely less than previously for the supply of its officials on the wealth of the church (assuming it did not want to raise taxes), but had to endow sinecures from its own resources. The number of these positions available for distribution to retainers, younger

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<sup>44</sup> Storey 1984, p. 204.

sons, relations and friends of the nobles was thereby reduced. This, in turn, made it all the more pressing to keep to definite unwritten rules in the dispensing of the royal power of patronage was.

It is easily possible, as Tuck warned,<sup>45</sup> to give undue importance to critical voices on the practice of patronage. But if this practice did not simply disadvantage particular magnates who might have made themselves unpopular at court or done too little for their influence, but actually displaced the influence of entire groups of nobles, as always happened when a king fell too greatly under the influence of his immediate milieu (a dramatic example being Henry VI), a serious crisis of government generally resulted. The particular reason for this was that the ruling position of nobles in the regions could not be built up or retained without patronage.<sup>46</sup> The nobles could readily purchase services, and many knights became rich because their lords found themselves obliged to reward them. (In this way, the predatory gains that nobles drew from the Hundred Years War were to a degree 'socialised'.) At least as significant as the establishment of monetarised and contractual relations of dependence for the real power of a noble, however, and much less expensive as well, was a practice described as 'good lordship'. From the fifteenth to the seventeenth centuries, good lordship meant the exercise of political influence in favour of individuals or (at least in the fifteenth century) towns, so as to obtain the best positions or the most favourable rights. To a certain degree, material benefits were expected in exchange, but what especially developed in this way was the network of personal obligations on which the power of the nobles was founded.

If access to the patronage of the victorious king was one of the issues at stake in the Wars of the Roses, this corresponded to the struggle of the contending groups of nobles in the French wars of religion. Clientelism in France, however, never attained the structural importance that the practice of good lordship did in England. For clientelism was restricted in its material importance by the fact that the power of office was to a considerable extent privatised by the sale of offices, becoming an increasingly heritable possession of the officeholders. It is true that in England, too – we shall return to this – the practice of reversions (agreement to a successor in office) meant that power of office

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<sup>45</sup> Tuck 1971, p. 3.

<sup>46</sup> Cf. Cherry 1981, pp. 123–44.

was in part established for a long time in advance, and to a degree inherited in particular families, in the fifteenth and especially in the sixteenth century.<sup>47</sup> Yet, as Storey rightly points out, the route of access to offices, from the fifteenth through to the nineteenth century, remained principally unchanged. From the time that the officials were almost all laymen until the introduction of formal rules of access to state service, both sinecures and official authority were gained by having at least the minimum qualifications needed, and enjoying the goodwill of an influential noble or the holder of an important office. Possession of such influence was not a privilege granted along with a noble title, but had to be won in the individual case.<sup>48</sup> But because the practice of patronage formed a precondition for the political power of members of the high nobility, these were not prepared to accept an influence of royal favourites that was unwarranted in their eyes. The structure that eventually built up in the course of repeated conflicts did indeed remain precarious, since it depended on the individual conduct of kings and queens, but as a requirement of royal rule it was none the less unambiguous: generalised power of office remained the property of the crown, but it was distributed among the nobility. In practice the generalised power of office was therefore a collective possession of the nobility as an estate.

#### *Constitution of the lower nobility*

In his search for the first person described in English documents as a 'gentleman', Sitwell came across Robert Erdeswyke from Stafford. In 1414 or 1415 (Sitwell was unable to give the precise year) this man had to appear before the king, being charged with assaulting and wounding with intent to kill a certain Thomas Page, who is reported to have begged on his knees for his life. At the same time, another 'gentleman' and likely relative of the former appears in the records, being put on trial for rather similar behaviour – including attempted murder and particularly grisly torture. Sitwell<sup>49</sup> believed that if any earlier bearer of the 'grand old name of gentleman' should be found, this would also be in all likelihood in connection with robbery, murder or assault.

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<sup>47</sup> Williams 1979, pp. 86 ff.

<sup>48</sup> Cf. Cherry 1981.

<sup>49</sup> Sitwell 1902, p. 76.

Three hundred years later, it was taught in English schools that the description of gentleman applied to a man 'with high principles and a generous nature', and the bearers of this name were obliged to distinguish themselves from the rest of the world by magnanimity and virtue.<sup>50</sup> This indicates not only the broad scope of the term, but also a structural change in the lesser nobility of England. The fourteenth and fifteenth centuries were those of its rise, the eighteenth century when it flourished and came under threat.

In the decades of the military and 'political' conquest of the English kingdom by the Normans, there were in England the king and the barons. A few of these bore the title of earl, and a few more were already at this time described as magnates. Those knights who were tenants of barons could no more be counted as members of a particular – aristocratic – estate than could those who lived in a lord's household without a tenure of their own. This changed with the aristocratising of knighthood, i.e. the increased social esteem of the profession of arms and the development of a code of behaviour for those who practised this profession in armour and on horse.

For a long time, historians took it for granted that the aristocratising of knighthood, which marked the entire Christian world, had been caused by the church's policy of the Crusades. This made the clergy the most important initiator of the disciplining of knights. As Maurice Keen has shown, however, knights developed long before the call for Crusades the view that their particular way of life, in so far as it followed certain rules, was pleasing to God.<sup>51</sup> In this way, the aristocratising of knighthood followed from widespread social strategies of professional warriors. The church's doctrine of holy war linked up with these strategies, aiding their success and thus sanctioning the behavioural demands placed on knights.

With the development of the high nobility, those members of the aristocracy who did not acquire a title became, in a certain sense, non-noble. Even if their conditions of possession and the mode of their participation in the king's wars did not change, this was effectively a social demotion.<sup>52</sup> Those among the professional warriors who had only a small tenancy, or none at all, could not offset this effect of the rise of a hierarchy of nobility. They were excluded

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<sup>50</sup> Defoe 1972, p. 12.

<sup>51</sup> Keen 1987, Chapter 3.

<sup>52</sup> McFarlane 1973, pp. 268–78.

in this way from the social advance that the constitution of the lower nobility of England involved for those who were its members.

The lower nobility developed from the *consolidation of a possessing estate* and its appropriation of the generalised power of public order. This signified a separation of social status from the feudal forms of organisation of armed force. It is true that many members of this lower nobility 'in the process of development' in the fourteenth and fifteenth centuries were active knights – or had been so in their younger days. (English historiography describes them as knights if they rode to war in person.) For their social status, however, this occupation was already no longer *constitutive*; it was simply a typical characteristic. The beginnings of development of the lower nobility as an estate are rather connected with the organisation of royal armed force. In particular, they lie in the royal decree of 1285 that stipulated for the first time that anyone with an income of more than £40 had to become a knight. In 1292 this qualification was reduced to precisely £40. (As early as 1234, it had become obligatory for all sons of tenants-in-chief to be dubbed as knights.)

Doris Mary Stenton<sup>53</sup> assumes that these measures had essentially a fiscal effect, i.e. that the crown profited from the fines that lords had to pay if they did not obey this decree. It is true that the possessors of baronial tenancies could scarcely have escaped this obligation on themselves and their sons, but other lords were certainly prepared to escape knightly service by money payments (see below). This behaviour documents how a broad stratum of lords no longer accepted knighthood as a condition for social respect. In the thirteenth century, this was, according to Stenton, 'a minor social revolution', and kings sought to oppose it. This is why Edward I summoned knights to his court, and the conquest of Wales gave him the occasion to celebrate with a great 'round table', i.e. a major dubbing ceremony. The celebrations involved with knighthood were always ceremonial and costly. Yet the *de facto* agrarianising<sup>54</sup> of the knightly classes in England was not to be stayed.

In principle, nothing is wrong with this assessment if we bear in mind that 'writs of distrain' (demands to denounce those who had neglected their duty to knight's service) corresponded in time with wars. According to Nigel Saul, an attempt was made in 1316 to increase the number of knights for the

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<sup>53</sup> Stenton 1967, p. 97.

<sup>54</sup> Sanders 1956, p. 3.

Scottish war, and in 1326 for the war in Gascony.<sup>55</sup> But Saul is also of the view that actual participation in the king's wars of the fourteenth century was first and foremost a function of the popularity and anticipated profitability of the war in question.<sup>56</sup> With the final transition to a contract system (see above) in the second half of the fourteenth century, the military significance of the obligation to become a knight came to an end.

As early as the end of the twelfth century in England, knightly service already had lost not only its military significance, but its civilian meaning as well. The dubbing of a knight then came to mean an ability to support the king in his non-military practice of rule, a development that was only possible because the king also had dominion over the subordinates of his tenants-in-chief.

Since the reforms of Henry II in the late twelfth century, certain functions in the judicial and administrative system at the county level were practised only by 'legal knights' [*legales milites*]. Only those knights qualified for this who possessed lands of a certain size in the county in question. In the twelfth century, the filling of positions for which only *legales milites* were competent (in particular, the twelve knights required for a grand assize) seems not to have been a problem, and even at the start of the thirteenth century nothing fundamental had changed, according to D.M. Stenton.<sup>57</sup> In the course of the thirteenth century, however, attempts to escape the obligation of office increased. Historians today see these efforts as the most important reason for the introduction of obligatory knight's service: initially for the heirs of barons, then also for other landowners with a minimal annual income of £40.

The involvement of knights in non-military practices of royal rule was initially the result of royal strategies of rule. The fact that the lords did not all bend themselves to this intention, however, should not deceive us as to the fact that such involvement also arose from the strategies of potential office-holders. The success of their efforts to control the practice of local rule was possible due to the partial depersonalisation of feudal rule. For, when the tenants-in-chief brought about the regulation of royal feudal rule, their own tenants were able to make similar demands. They sought to win the support

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<sup>55</sup> Saul 1981, p. 38.

<sup>56</sup> Saul 1981, p. 37.

<sup>57</sup> Stenton 1967, p. 96.

of the crown in limiting the power of their lords. They did indeed share with barons a criticism of the exploitation of forest rights, and to a degree also of the crown's fiscal power as practised by the sheriffs. But, whereas the barons took sheriffs into their service and could set *de facto* limits to the fiscalisation of forest rights, this was hardly possible for members of the knightly estate. There thus arose, together with the fixing of patterns of local ruling practice by the magnates, distinct interests of knightly tenants – even if these were only partial and temporary. Magnates and kings had to keep this fact in mind in their practice of rule.

The barons' uprising against the crown in 1258 made a new situation clear. The revolt was triggered by impositions that the (rather unsuccessful) dynastic efforts of the crown in Sicily had required. The barons demanded the subjection of the king to a council of barons. To win support for this, they committed themselves also to accept the regulation of their own rule. This concession, however, was not sufficient to sway the knightly estate to support the noble oligarchy. When a revolt against the government broke out in 1263, many knights and esquires were among the rebels. The majority of barons were now on the other side, and had once more become defenders of the king. Despite the defeat of the rebels in 1265, it was in these years that the social group comprised at that time under the notion of knights emerged as an autonomous political force.<sup>58</sup>

If the Commons emerged in the fourteenth century as a regular component of any parliament, this resulted on the one hand from the successful power strategy of the peers described above (i.e. their success in making an assembly that sent petitions to the king, and was summoned to give advice, into a judicial instance), on the other hand from the fact that the gentry in the counties, and thus in the kingdom as a whole, had attained such a position that the crown was compelled to listen to their requests and objections.

The 'knights of the shire' presented few demands that favoured only their own estate. They were often in agreement with the high nobility, and sometimes directly influenced by certain peers. Their petitions were frequently backed by the House of Lords. The Commons also formulated petitions of merchants and guilds in the towns, for example when the so-called 'good Parliament' of 1376 urged the assistance of the crown in circumventing the

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<sup>58</sup> Cf. on this also Maddicott 1984, p. 65.



trading rights of Calais. From the mid thirteenth century, moreover, representatives of the boroughs were themselves invited to Parliament – not yet on a regular basis, but at least if the raising of new taxes was to be discussed.

The most important cause of the development of the gentry as a partially independent political force was their participation in the local practice of royal rule. This goes back to the end of the twelfth century, and lasted until the late nineteenth century. During this time, to be sure, not only did the conditions for membership of the knightly estate or gentry change, but so did the social and political forms of recruitment to local office. If this was initially still a question of the obligations of knights, which many of these were happy to evade (see above), the practice of local office power became in the course of time a privilege of the lower nobility and hence a component of estate rule. The exercise of particular offices became at the same time the most important criterion for membership of the lower nobility. Especially important in this connection was the office of sheriff, and (later) that of Justice of the Peace.

During the reign of King John, some counties purchased from the crown the right to choose their own sheriff. In this way, the crown drew financial resources for its wars, and it became possible in these counties to set limits to the personal enrichment of the sheriff. With the majority of Henry III and the end of the previous financial distress, this sale of privileges to the counties came to an end.<sup>59</sup> Instead of this, the crown now reserved local opportunities of rule, and thus of exploitation, as a reward for the magnates. Between magnates loyal to the king and the less rich landowners in the counties there developed in this way differences of interest, which persisted even when the office of sheriff lost its attraction for the magnates in the 1240s, because the sums demanded from the sheriffs increased and their opportunity for personal gain was thereby curtailed. Those magnates who had previously often kept the office of sheriff as a family possession, now increasingly renounced this office. This development accelerated when the powers of county courts were reduced by the introduction and development of assize courts that were no longer under the sway of the sheriff. The reduction of the sheriff's term of office to one year, and the regulation that the incumbent had to hold land in the county, finally transferred this office to the gentry in the fourteenth century.

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<sup>59</sup> Maddicott 1984, p. 42.

Even if, as John G. Bellamy has it, the magnates understood how to exert their influence on the office of sheriff, and thereby their power in the counties, by making private agreements with the office-holders,<sup>60</sup> this practice could only be carried on within certain limits. Since the gentry had succeeded in establishing that sheriffs should no longer be appointed from outside the county, the office-holders had to keep in mind the interests of their 'neighbours'. All the more so, in that the sheriff's office gradually became a regular station in the political career of representatives of the gentry. In the wake of this local *cursus honorum*, which Bellamy also stresses, the man who was sheriff one year might the next year be elected to Parliament and the year after chosen as Justice of the Peace.

There were institutional precedents for the office of Justice of the Peace in the thirteenth century. Henry III, in the period of armed rebellion (1263–5), had appointed local military officers alongside the sheriffs, and both Edward II and his son Edward III subsequently selected 'keepers of the peace' to support the sheriff. Whilst these 'keepers of the peace' were initially only engaged to inform on violations, from 1361 they themselves received judicial authority. 'Commissioners of the peace' were also employed sporadically in the shires. They were to judge certain offences, and pass others on to the assize courts.

This had been preceded by a few years of experiment with the new labour legislation. It was at first unclear and open to challenge who should be punished for wages that were 'too high', given that these had been paid as a defence measure against the effects of the plague on the supply of labour-power. The fact that the profits from this judicial practice were withheld from the private lords who claimed them signified a victory for those lords who insisted at this time that the fines levied should be deducted from the sums to be raised for the costs of war, and not handed to the crown as an additional payment. (This also meant, incidentally, that a part of the costs of the war on the Continent were borne by wage-earners, who were forcibly prevented from making use of their improved prospects on the market, due to increased mortality and the movement of landless peasants into possession of land.) The transfer of judicial responsibility for labour – and later also further responsibilities – to representatives of the local landowners thus stood in their

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<sup>60</sup> Bellamy 1973, p. 93.

general fiscal interest as a class. The same went for defence against resistance movements and disturbances.

The establishment and growth of competence of the peace commissions was a *key constitutional characteristic of the ancien régime* in England. While the peace commissions had been elements of generalised royal power, they belonged at the same time to the nobility as a possessing estate. This is shown by the decree that judges had to be local (with the exception of some great nobles) and have an income of at least £40. Still more clear is the fact that the greater part of all crime in England was judged by lay judges. These may well have had a certain knowledge of the law, but what was relied upon in the first instance was their good sense – marked, of course, by estate and class dimensions. Their practice of rule was based on the common law, but also on the arbitrary interest of their fellow estate members.

The degree to which the particular interests of the great nobles prevailed among these latter, and that Justices of Peace were in actual fact chosen by them and remained in their service, was determined in the first place by the possession structures in the counties in question, partly also by the policy of certain families of the high nobility. There were shires – for example in East Anglia<sup>61</sup> – where there were no dominant magnates, and the public-order power was accordingly controlled completely by the gentry; there were others where, irrespective of the fact that stewards of the lords had been excluded since 1388 from the office of Justice of the Peace, the general dependence on a particular magnate formed the dominant determining factor in the constellation of landed interests. Since, however, neither the magnates nor the king could afford to damage the interest of the gentry in the long run, they were necessarily forced time and again to bring their own interests into line with those of the lower nobility.

At the same time, this estate 'socialisation' of judicial competence presented a *de facto* limit to the king's power. It followed quite logically from this that the king's principal office-holder, i.e. the sheriff, should lose authority and importance with the rise of the Justices of the Peace. In 1435, the sheriffs were finally deprived of their legal competence.

From the obligation to take offices in the service of the crown, a kind of estate possession of royal office power arose in the course of the fourteenth

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<sup>61</sup> Virgoe 1971, p. 227.

century. The rule of the English crown was in this way *regionalised on an estate basis*. This process is identical with the constitution of the lower nobility of England.

The material precondition for recognition of 'gentility' was an annual income of at least £40. The separation of social status in this way from the forms of organisation of armed force became evident when the representatives of a shire whom a 'county court' sent to Parliament were themselves described as knights of the shire, even if they were not knights in the customary sense. When this description became customary – by 1370 at the latest<sup>62</sup> – most representatives of the shires were indeed still active knights – as J.S. Roskell<sup>63</sup> explained, even in 1422 almost half the representatives sent to the Commons had still had war experience – but others at this time had already attained the status of knight simply by way of an election for which their possessions and the respect they enjoyed among their landed neighbours had been decisive. By the mid-fifteenth century, this political-social practice of *de facto* ennoblement was recognised and sanctioned by the crown: a statute of 1444–5 laid down that no one should be sent as a representative to Parliament who was not a knight, esquire or gentleman of a shire. But, whilst someone became a knight by dubbing, and an esquire was either the younger son of a noble or was described as such for the sake of courtesy (university professors, church scholars, mayors of towns, and lawyers of all \\\kinds would be regularly addressed as esquire in the fifteenth century), a gentleman – at least in the sense of the statute of 1444–5 – was *anyone with a minimum income of £40 a year*. Even in 1512, those who were neither ennobled nor dubbed as knights, but were reputedly more eminent than their fellows, were characterised for the levying of tax as 'having lands and rents to the value of forty pounds per annum or above'.<sup>64</sup> The lower nobility of England was thus defined in terms of its material core.

Besides the material condition for membership of the nobility, however, there was also a further condition: actual or potential participation in public office. When, in the sixteenth century, Thomas Smith complained of the 'simple way in which nobles are made in England', the process of constitution

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<sup>62</sup> Thomson 1983, p. 113.

<sup>63</sup> Roskell 1954, p. 92.

<sup>64</sup> Stat. 4 Hen VIII c 19, cited after Sitwell 1902, pp. 65 ff.

of the lower nobility as an estate had already been completed. Smith was thus able, even in relation to the successful rise of individuals, to establish that 'anyone who studies the laws of the kingdom or at a university and practises a free profession, in short, anyone who can afford to live at leisure and not from the work of his hands, and assumes the appearance, obligations and behaviour of a gentleman, is addressed as Master, for this is the address for an esquire or other gentleman; and he is then deemed to be a gentleman'.<sup>65</sup> The dual foundation of the gentry as an estate, however, had already preceded individual 'ennoblement' of this kind.

The gentry became a privileged estate on the basis of their participation in generalised power. This privilege of participation, however, did not become (as it did in the case of the great nobles) the individual property of members of the estate, but rather the possession of the lower nobility as a whole. It was in connection with this collective process of appropriation of a part of the generalised power that the self-consciousness and demarcation practices of the gentry were constituted, the beginnings of their 'symbolic power' that would subsequently be so important.

Not only the great nobles, but also the lower nobility in England, symbolised their membership of the 'gentility' (i.e. the totality of great and lesser nobles) overwhelmingly in military terms. In the fourteenth and fifteenth centuries, this still corresponded even for the lower nobility with actual models of behaviour – as the studies by Sitwell referred to above make clear. Even the less powerful gentlemen made use of armed force, if the courts were not in a position to resolve disputes about their possessions, cases went on too long or ended unsatisfactorily.<sup>66</sup>

It has subsequently been maintained that membership of the gentry rested on the right granted by the crown to a coat of arms. But many of the great families had already created their particular arms in the twelfth century,<sup>67</sup> whilst others long refrained from doing so. Sitwell convincingly showed that it was at first very gradually and only later by regulation (to prevent the plural use of particular coats of arms) that the crown intervened in the right of a family to acquire distinctive arms and to characterise its weapons in this way.

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<sup>65</sup> Smith 1970, pp. 27 ff.

<sup>66</sup> Saul 1981, pp. 196–204.

<sup>67</sup> Stenton 1967, p. 62.

In England, moreover, the right to bear arms was not reserved to the nobility. Possession of weapons was obligatory for all free men. The privileged had to acquire more expensive weapons. The fact that these prescribed differences in arming became characteristics of rank was the result, not the cause, of the increasingly hierarchical articulation that was bound up with the introduction of formal titles of nobility and the *de facto* regulation of precedence.

An important factor in connection with this development – according to Sitwell’s interesting argument, taken up again by K.B. McFarlane<sup>68</sup> – was the rather stronger control over ‘uses’ (see above) in the fifteenth century. As long as younger sons of nobles had the benefit of substantial portions of family possessions by way of these ‘uses’, they often managed to rise into the high nobility. When primogeniture came to be more strictly enforced, whilst at the same time the opportunities for acquiring money and prestige through war went into decline, this path of ascent became more difficult. It was all the more attractive therefore for younger sons to insist that they were something better than other people, quite apart from their wealth or particular position, i.e. *gentil* like their brothers, gentlemen even without an actual noble title. Heraldic symbols also served this demarcation effort.

Because it pertained to the status of gentry to stand in the service of the king, or to be considered fit by other gentlemen for the exercise of such power of office, ‘civil’ modes of behaviour were part of the self-conception of the lower nobility right from the start. Important evidence in this connection is that in the fourteenth and fifteenth centuries, it became customary in this social group (as well as among rich ‘freeholders’) to purchase, borrow, write and inherit books, literacy being a precondition. The decline of French as the spoken language of the lords of England, its increasing confinement to procedures of law and administration, marked, among other things, the self-conscious rise of a lower nobility that was well-to-do, not uncultivated, and involved in the practice of generalised power.

### a.3. *Refoundation of generalised personal power*

For many areas of rule, but especially the feudal forms of exploitation of labour-power, the objectification of personal relations of domination meant,

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<sup>68</sup> Sitwell 1902, pp. 76 ff.; McFarlane 1973, p. 277.

in the first place, a change in the *forms* of its practice. The rule of the English kings underwent a different change. In the process of constitution of the *ancien régime*, it was not only the forms of this rule that were changed, but its actual foundations. Whereas the generalisation of royal rule in feudalism had been based above all on the monopoly in land that the English kings enjoyed, its most important foundation under the *ancien régime* was the generalised rule of the nobility as an estate.

The emergence of private property in land had narrowed the basis of power of all lords, once their tenants became able to assert a property in their tenures and restrict the remaining elements of feudal rule. The king was the only lord who could not compensate for this narrowing of the basis of power by strengthening his own material independence vis-à-vis a lord. It was also the king, therefore, who was most strongly affected financially by strategies of evading inheritance payments, and by the development of 'uses'. However, in the phase when the royal monopoly in land could still be *de facto* exercised, instruments of generalised royal judicial, fiscal and military power were established – this being one of the structural particularities of English development. In this way, the rise of noble territorial rule was to a large degree prevented. The power of the English nobility developed right from the start *within* the structures of generalised royal power, and dependent on the practice of royal rule. The constitution of estates did not change this connection. But it integrated the individual relationship of king and nobles that was still important into an overall ruling practice of the crown and the privileged estates.

This change in generalised rule was summed up in the conception of the *realm*. This differed from the earlier historical notion of the *kingdom* by its intentional limitation of royal arbitrariness. This intention was indeed realised. Whenever the English kings neglected the reproduction requirements of the nobility, or did violence to them, they were in danger of being deposed and killed. The frequency of noble rebellions in the thirteenth, fourteenth and fifteenth centuries expresses the fact that the kings of England had to base the exercise of their rule on estate 'interests', while conversely the members of the nobility required particular forms of practice of generalised power for the reproduction of their dominant position.

As a whole, however, neither the strength of the crown nor that of the high nobility was weakened by the establishment of royal power in the form of generalised estate rule. Developments in rulership did not follow a zero-sum

game. On the contrary, by tying the crown to the nobility's exercise of rule, the potential might of the English kings rose. Their strength both externally and internally was a function of the degree to which they could secure the collaboration of the high and lower nobility in the extraction of taxes and the exercise of royal judicial power.

Through the stabilisation of generalised power, the crown also became an institution for the forcible sanctioning of existing relations of exploitation, and for the power-political implementation of new possibilities of appropriation.

The constitution of the English *ancien régime* thus signified, in a word, a certain instrumentalising of the crown by estate 'interests', and thus necessarily to a degree also by class interests. The personal structure of royal rule, however, placed certain limits on this development. The actual extent of personal competence was discovered and changed by ever renewed conflicts: in the debates of parliaments, in the formal or *de facto* refusal by the nobility to collaborate in the exercise of royal rule, through to the deposing and killing of the king. In the course of time, regularised practices of participation in rule grew out of these repeated conflicts. Circumstances could however arise in which the king was in a position to revoke established practice. The constitution of the *ancien régime* should certainly be interpreted as a process of stabilisation of generalised rule through the foundation of estate 'interests', but it would be mistaken to conclude that this transformation in the basis of generalised rule was a process of increasing limitation of the personal character of the king's rule or even a constant process of objectification of forms of rule. The field of tension between personal rule and its generalised estate basis can be shown by the examples of fiscal power and the power of pardon.

Even after the parliaments had asserted – in the mid-fourteenth century – that taxes could not be raised without their assent, this did not mean that they could absolutely refuse agreement to this. They could find the sums demanded too high, and use this as an opportunity to negotiate political concessions, but in so far as the king sought 'aid' to deal with an emergency situation, refusal would mean rebellion.

The parliaments of the fourteenth century were successful to a certain degree: the taxes that they voted had to be required for an 'emergency' (as a general rule that of a war that affected the *realm*). Parliament was in no position to control the actual spending of the taxation received, or contesting the existence of an emergency; but what was achieved was that power of taxation



did not develop into an established prerogative of the English crown. To this has to be added, however, the (relatively low) duties that were raised on the export of wool from 1275 and from 1347 on that of cloth. These duties were voted with increased frequency for the whole duration of a king's reign.

The kings initially sought to evade the claims of Parliament (in particular of the Commons). They granted privileges of foreign trade to particular merchants, and negotiated credits and a share of profits directly with these. The conflicts over the crown's fiscal power reached a high point in the mid-fourteenth century in attacks on this taxation of 'royal merchants' – described as *maltot*.<sup>69</sup> Taxation practice of this kind, which circumvented Parliament, provided the crown with a substitute for the revenue it had previously raised from particular gifts and higher export duties on foreign traders. (English merchants increasingly formed a common front in the fourteenth century against the privileging of foreign corporations, supported in this by the Commons.)<sup>70</sup> The merchants with an interest in the establishment of a royal monopoly were those who received or expected royal privilege, not however those excluded from the export monopoly and not all who sought to confine the taxation demands of the crown to well-founded 'emergency requirements'. Whether the royal privileging of great merchants was eventually ended because even these were not rich enough to provide the crown with the loans it needed, and the crown had to return to its previous financiers, or whether this abolition was primarily attributable to the persistent resistance of Parliament, the result in any event was that the crown was challenged in its direct negotiation with third parties over a regular participation in their profits. The dissolution of the monopoly of 'royal merchants' then followed as a matter of course. Parliament then regularly granted the particular duty on wool exports, and in the course of time even without the argument of special (defence) needs.

With the regularisation of an indirect tax on wool exports in the late fourteenth century, the regular costs of generalised rule were recognised as a burden on the 'kingdom', while conversely the right of the crown to directly tax its subjects was restricted to the case of war. (These principles were to hold good for three hundred years.)

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<sup>69</sup> Harris 1975, pp. 420–70.

<sup>70</sup> Bridbury 1975, pp. 36 ff.

The fiscal power of the kings, however, was for a long time still far from being completely 'parliamentarised'. G.L. Harris has impressively shown how kings demanded loans from their 'subjects', and whilst payment of these was supposedly voluntary, there were few who dared to refuse it in practice.<sup>71</sup> The English kings also made it their practice to seek presents from the more wealthy of their subjects, so-called 'benevolences'. Edward IV, for example, financed his campaign in France of 1475 chiefly in this extra-parliamentary fashion.<sup>72</sup> The Tudors also demanded such benevolences, and together with the immense securities demanded by Henry VII for future good behaviour, these benevolences are striking evidence of the persistence of a considerable measure of non-regularised power of appropriation on the part of the English crown.

A further reason why these kings sought a direct hold on the incomes of individual subjects was that in the course of the fiscal conflicts of the fourteenth and fifteenth century, the principle was gradually established that the kings had to meet their regular practice of rule out of indirect taxes granted by Parliament and income from the crown lands. From the fourteenth to the seventeenth century, the English kings thus found themselves regularly faced with a situation of financial crisis.<sup>73</sup>

The Lancastrian kings sought to escape this by a more business-like exploitation of the crown lands, along with measures against the circumvention of inheritance duties. The fifteenth century also saw the end of the practice of using the crown lands first of all to provide for the king's relatives. The profitable exploitation of royal sources of income, however, remained limited not just under the house of Lancaster, but also under Henry VII. Even the first king of the Tudor dynasty was led to directly encroach on the wealth of the nobles, though the crown lands had been expanded at the end of the Wars of the Roses with the possessions of the house of Lancaster, and the return of some of the income sources given out for purposes of patronage had also improved the royal finances. The appropriation of church lands by Henry VIII changed the situation dramatically, but only for a very temporary period (see below).

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<sup>71</sup> Harris 1963, pp. 1–19.

<sup>72</sup> Thomson 1983, p. 264.

<sup>73</sup> Harris 1982, p. 819.

Just like the conflicts over the fiscal power of the king, those over his power of pardon also show very clearly the change in the foundations of generalised power. In the fourteenth century, pardons could be bought relatively easily from the royal Chancery, naturally at a high price. This confirmed, on the one hand, the continuing dependence of the crown on the strength of the great nobles (who regularly needed pardons for members of their retinue, as part of their practice of rule), and, on the other hand, the appropriation character of the judicial power. In 1390, however, Parliament demanded the regular limitation of the practice of pardon, and attempted in 1444 to refuse a particular case, demanding that an accused man in possession of a paper giving a general pardon should none the less be brought before the court. This would considerably have reduced the personal power of the king, if the crown had accepted it. It is significant, none the less, that whilst the king opposed Parliament in form, in content he largely accepted: the accused was not brought to court, but condemned to life imprisonment without trial.<sup>74</sup>

The demand for a regulation of the royal practice of pardon aimed at a stronger control of the rule of the magnates. On the other hand, however, in certain circumstances a generous application of this royal practice was useful, i.e. to correct local judicial arbitrariness. There were many occasions when the king pardoned persons who petitioned that they had been unjustly condemned. The fact that despite such 'corrections' the king's power of pardon did not contradict the estate appropriation of a part of the judicial power, was shown above all by the 'general pardons' of the fifteenth century. In 1437, when Henry VI came of age, the Commons themselves sought the decree of a general pardon, or more precisely, the generally available possibility to purchase this.

In the following decades, general pardons served as an attempt to pacify the kingdom. Ordinary people made use of general pardons, as Storey has shown,<sup>75</sup> if they wished to return to an orderly life after years of living outside the law.

The right to pardon, on the other hand, must be seen in the context of the general process of fiscalisation of ruling authority. By obtaining pardon, secular and church lords paid a kind of fee for circumventions of inheritance taxes

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<sup>74</sup> Storey 1966, p. 211.

<sup>75</sup> Storey 1966, p. 215.

that they had already practised or planned.<sup>76</sup> In this way, offences were settled fiscally which would otherwise very likely have escaped a criminal or feudal jurisdiction that was not very effective, but still remained for the offenders a cause of concern.

The constitution of the *ancien régime* signified at the same time the foundation of generalised power in the reproduction conditions of established lordship. But because the English nobles – as will be shown in more detail in the following chapter – could not take many privileges into their private possession, the privilege of participation in rule being rather the corporate possession of members of nobility, there developed under the English *ancien régime*, right from the start, a connection of the crown to an estate public sphere – or better, to several such spheres. This structural characteristic, moreover, was constantly reproduced anew in the processes of social selection that marked the ascent of well-off free peasants into membership of the gentry. A selection practice of this kind became common in England, but its specific form and application occurred in the context of a local public sphere. It can even be said that this process – in specific terms, the selection of persons who would be proposed to the crown for particular offices – constituted this local public sphere.

The boroughs, i.e. towns with certain rights of self-administration, also profited from the privileged estates' participation in rule. It is true that in the fifteenth century not only many small towns, but even some relatively large ones, still stood under the direct rule of a religious or secular lord.<sup>77</sup> Other towns, too, continued to remain dependent on the patronage (i.e. mediation) of a great lord for the negotiation of their privileges and level of taxation. But most towns in the fourteenth century had achieved certain rights of self-administration. They were now treated like counties for administrative purposes. As in other counties, it was the interests of rich inhabitants that also prevailed in the boroughs. Yet a regular urban patriarchy never developed in England. Nor did the towns attain any independent importance in the formation of the *ancien régime*. The assertion of mercantile interests regularly happened in the context of conflicts between the nobility and crown. Even London was no exception to this. The fact that, in case of war, towns were

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<sup>76</sup> Storey 1966, p. 213.

<sup>77</sup> Reynolds 1977, p. 115.

taxed after 1294 more highly than rural counties, is a striking indication of the persistent dominance of the nobility in the conflicts over the exercise of generalised power.

The generalisation of the exercise of royal power that was now newly based and implemented unavoidably brought with it a certain objectification, as we have already shown: the assertion of certain (legal) rules and the more or less regular control of adherence to them. In this respect too, however, we should warn against misunderstanding. There was indeed a process of fiscalisation and legalisation (thus also the beginnings of bureaucratisation). But these forms of rulership continued to stand in constant competition with the old means of thrust and parry. Very often, the 'rationalisation process' was the loser in this competition, despite the superiority in principle that social theorists subsequently ascribed to it. In the fourteenth and fifteenth century, and still for a large part of the sixteenth, the use of armed force remained a regular recourse of nobles and kings. That resort to law was less dangerous, sometimes more successful and at all events cheaper than brute force, was by no means an established point of view. The English nobility's notion of honour also opposed such new conceptions for a long time to come. Limits to the objectification of noble rule were bound to remain so long as the actual succession of English kings was still decided on the battlefield. When Henry, Earl of Richmond, claimed the succession to Richard III in 1485, this high-born adventurer could scarcely adduce anything more in his favour than his victory at the battle of Bosworth Field. By declaring the death of the king in this battle as the judgement of God, he was following the pre-rational practice of trial by battle.

## **b. Contradictory development of the *ancien régime***

### *b.1. Old and new orthodoxies in historical discussion of the development of structures of rule in England in the 'early-modern age'*

For a long time, historians wrongly saw the battle of Bosworth as marking not only the rule of a new dynasty, but at the same time the beginning of an 'early-modern age' in England. The final blossoming of 'bastard feudalism' had continued until 22 August 1485, but after-effects of this form of rule are rarely admitted in depictions of subsequent history. Henry VII had been

content to interpret the battle of Bosworth as a judgement of God, but later historians made it into a watershed between two historical epochs.

It is indeed accepted that the administrative reforms carried out by the first Tudor king had been already begun by his predecessors, and were perfected by specialists who had previously served Richard III. Other historians have also noted the very gradual development of the 'new monarchy'. This is not to challenge the fact that 1485 was an important date, but simply to place it in a context of evolutionary conceptions of development.

The claim that a new epoch of English history began in the year 1485 also corresponded to the view long established among Marxist historians that the Wars of the Roses were a desperate struggle for survival of a nobility whose rulership had been shaken by the crisis of lordship. In these wars – according to an interpretation upheld not just in Marxist circles – the English barons mutually exterminated each other; under the Tudors, a new nobility subsequently arose.

The concept of a 'new monarchy' was not only the prevailing opinion among historians for a long time. It was also – and continues to be – a component of the national legend. In every production of Shakespeare's *Richard III* this notion is upheld when Henry of Richmond in his closing words implores God's aid, that the previously warring parties: 'Enrich the time to come with/ smooth fac'd peace,/with smiling plenty and fair prosperous days.'

The first vigorous attack on the view that the Tudor dynasty signalled the start of a new age dates from K.B. McFarlane's studies of the high nobility. McFarlane established as early as 1938 that the only new monarchy there had ever been in England was that brought to the country by William the Conqueror.<sup>78</sup> In many of his writings, he went on to make clear that the Wars of the Roses did not exceed those of earlier or later times in the 'rate of extermination' of great noble families. These wars broke out, in his view, not because of an epochal structural crisis of noble rule; the crisis was rather one of the rule of the crown.<sup>79</sup> But since this crisis – also according to McFarlane – was based among other things on the fact that the reproduction of the power of the nobility in the fifteenth century required their participation in the royal power of patronage, analyses of the crisis of lordship were brought into agreement

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<sup>78</sup> McFarlane 1973, p. 283.

<sup>79</sup> McFarlane 1973, pp. 177 ff.

with the analysis of rulership developed by McFarlane – at least once the dust of trench warfare between the rival ‘schools’ had settled.

It was Geoffrey R. Elton who finally overturned the supposed milestone that presented the battle of Bosworth as the English system of rule’s transition to the early-modern age. Elton did indeed stress the historical significance of the reign of the first Tudor king, who succeeded – after the good luck of his successful military victory in August 1485 – in re-establishing under changed conditions the lost strength of the formerly more powerful English crown.<sup>80</sup> The decisive breakthrough, however, the ‘Tudor revolution in government’, Elton shifts forward to the 1530s. This was triggered by the decision of Henry VIII to break with the Church of Rome, and carried through by Thomas Cromwell, the great Chancellor of the Tudor king. Elton impressively described in several of his works the changes in the practice of government, summarising these as the bureaucratisation of administration and the development of the ‘sovereign national state’.<sup>81</sup> As distinct from those authors who prefer to characterise the peculiarities of Tudor rule as ‘despotism’ or ‘absolutism’, Elton emphasised that the new practice of rule he portrayed was exercised in agreement with Parliament and not despotically.

If Elton sometimes equated all too readily the intention of administrative reforms with their reality, and if much of this ‘revolutionary’ change – a reproach G.R. Harris already made in 1963 – was not really as new or as effective as Elton supposed, the fact remains that in the sixteenth century structural changes took place in both the exercise and the system of rule. But the developments in administrative practice to which Elton ascribed such importance were actually of rather secondary significance in this respect – according to the thesis I shall go on to argue. For, in the Reformation era, the entire system of generalised rulership underwent a change.

Because the process of generalisation of political rule in England did not take place as a process of increasing centralisation, the mistaken view easily arises that equates the development of state rule in England with the rule of the crown. To understand *government* however chiefly in terms of the crown, its counsellors and its specialists, means to overlook, at least partly, the particular relationship of ‘state’ and ‘society’ under the English *ancien régime*. In

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<sup>80</sup> Elton 1955, Chapter 1.

<sup>81</sup> Elton 1955, p. 182.

his summary critique of Elton's interpretation, which had already become the 'new orthodoxy', Penry Williams formulated this view as far back as 1963 – even if his argument used different concepts. His subsequent book on *The Tudor Régime*<sup>82</sup> impressively confirmed this position – despite the fact that Williams, on the basis of detailed investigation, reached the conviction that the changes in the Tudor period were greater than he had supposed in 1963. We can only mention very briefly here his specific arguments. But the analytical programme for explaining developments in the state will be expressed below in a rather more complex combined concept of articulation.

In order to make clear the extent to which the structure of rule of the *ancien régime* in England differed from that in France, *we shall attempt to distinguish here between the crown (as centralised power) and the generalised power*. This however makes the presentation somewhat more difficult, in that the rule of the Tudors was precisely characterised by the fact that it was a long while before this distinction attained any real significance, since the crown and the 'ruling estates' developed their exercise of rule as a structural unity. This unity was established not just despite the fact that conflicts between powerful subjects and the crown broke out time and again, as well as conflicts between the crown and a smaller or sometimes even larger section of the possessing and ruling estates; it was established in a certain sense precisely by way of these. Conflicts of this kind were precisely the form in which the unity of ruling practice was introduced and maintained. The fact that this reproduction did not result as a structural necessity, but remained dependent on specific policies, and that the system of rule of the *ancien régime* in England also contained the structural possibility of a *collapse* of the generalised and centralised power, became clear in the seventeenth century. Our knowledge of the *revolutionary transformation of the ancien régime* that occurred in this process irredeemably determines our depiction of the system that preceded it. This perspective, however, is reliable only to the extent that structural *possibilities* of revolution indeed existed. Why these became reality cannot be deduced from structural conditions of the reproduction of domination, either material or power-political.

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<sup>82</sup> Williams 1979.



b.2. *Structural change in generalised personal power**Armed force*

Until the revolutionary transformation of the *ancien régime*, there was no standing army in England. The kings had certainly for centuries kept armed men in their household; and with the increasing professionalisation of the personnel of rule, these armed men received a special organisation: as *gentlemen pensioners* and *yeomen of the guard*. Whilst the latter only performed guard duty, the former were also used in battle by Henry VIII.<sup>83</sup> Just like the Tower of London, some of the coastal fortresses (many of these being either built or modernised by Henry VIII) also had permanent watchmen, and from the end of the fifteenth century the Board of Ordinance was responsible for arms and munitions. But attempts to create a standing military organisation foundered on opposition to the financial arrangements that this would have required.<sup>84</sup> (Such attempts were made towards the end of Henry VIII's reign, as well as under Edward VI and Charles I.)

This meant, however, that the crown had as good as no available armed force in its own possession – a fact which can not be overrated in the structural analysis of the system of rule in England. If 'absolutism' means anything in the English context, it cannot refer to centralised power, but only to generalised power; yet the prevailing notion of absolutism is not appropriate for this. For whilst *decision* over the use of armed force certainly counted as a prerogative of the crown, the manner and form in which such a decision was reached still remained dependent, in the sixteenth century and the first half of the seventeenth, on the collaboration of the ruling estates. This did not mean that the English king was less strong in military terms than those kings who possessed a standing army. When, as for example in the late sixteenth century, there was fear of invasion, and the military potential of the kingdom was fully deployed in collaboration with the nobility, then the English crown was in fact somewhat superior to other ruling houses in military strength.

In 1588, some 260,000 soldiers stood ready to defend the kingdom for a period of several months, deployed in more or less regular exercises. In the same year, the Spanish armada was driven off by an English fleet (with the

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<sup>83</sup> Young 1970, p. 11.

<sup>84</sup> Boynton 1967, p. 9.

aid of particularly favourable winds). At this time, more than half the ships belonging to the 'queen's navy' were privateers, who at other times pursued their own profitable campaigns with the crown's permission.

In 1589, prelates and nobles also made 16,000 armed men available from their own retinues, who stood ready to protect the queen in the case of the feared Spanish invasion. The situation was quite different at the time of the 'first bishops' war' of 1638. At that time, as Boynton (1967) has convincingly shown, Charles I had lost *de facto* control over the militia as a result of military operations in Spain which the nobility scarcely supported. The crown had at its disposal very few trained soldiers, and these were unwilling and undisciplined.

No prince in the early-modern age was able to make war without the support of the nobles; in England, this dependence was especially marked. In the period we are considering here, the social character of this dependence underwent a change: the 'bastard feudal' form of recruitment through a contract system had been principally oriented to the powerful nobles, since as a rule only these were in a position to provide the required number of soldiers. This meant that, in general, while the crown was dependent for its fiscal decisions on the forces represented in Parliament, for the prosecution of its power politics it depended above all on the co-operation of the *high nobility*.

This situation prevailed – *grosso modo* – until the middle of the sixteenth century. The structures of actual rule over generalised (i.e. non-private) armed force then changed, and in such a way that it was no longer principally the great nobles, but rather the ruling estates as a whole, that participated.

This change in the structure of generalised armed force had three principal causes. Firstly, the need to adapt the military to new organisational and technical developments in the arms profession internationally; secondly, the specific foreign policy situation, which facilitated prosecution of a far-reaching 'nationalisation' and partial professionalisation of military organisation. Thirdly – and above all – the changed conditions for the maintenance of the power of the great nobles.

Let us consider the starting point of this structural change more closely. During the Hundred Years War and the Wars of the Roses, the recruitment of soldiers had chiefly been the task of individual (mainly noble) private persons. In so far as it was great nobles who were entrusted with this task, they supplied the crown above all with armed men from their own households

and retinues, obtaining others in the main from among their own tenants, but also from those of the crown. The crown paid 'coat and conduct' for these, money for their clothing and maintenance up to their arrival at the prescribed mustering points. This allowed military entrepreneurs to make a considerable profit without any danger to life and limb.

Economically and legally, the engagement of local men through *lettres de service* did not differ substantially for the individual representatives of the crown from the engagement of foreign mercenaries. This, too, was generally conducted through contracts with chief suppliers. On the other hand, foreign mercenaries often had greater experience of war than at least those among the English peasants and their sons who had been rather unwillingly obtained from their lords.

The employment of foreign mercenaries, however, also had other substantial disadvantages, especially if these soldiers had to be quartered in England, with a view to using them for their suppression of uprisings or in wars against Scotland. Significant conflicts regularly arose with the local population. The practice of engaging foreign soldiers thus came to an end at the same time as the English kings' wars of conquest on the Continent: around the middle of the sixteenth century. Queen Mary still recruited foreign mercenaries, but Elizabeth did not do so even in her early attempt to regain Calais. Her subsequent military operations on the Continent (in particular support for the Dutch in their struggle against Spanish rule) served rather as defence against a possible threat of invasion, and were carried on by soldiers recruited in England.

For such recruitment, the crown continued to depend to a substantial degree on its nobles. For this reason, it could not develop quite the same interest in a total disbanding of the nobles' armed retinues as research into the Tudor period has long supposed. It is true that Henry VII forbade the engagement of his own tenants as retainers, and in 1510 he declared the engagement of armed men for the households of the nobility to be illegal for the duration of his reign. But, by giving out licences for retinues, the king then permitted frequent exceptions from this rule. His successors continued this practice. Also, after the death of Henry VII, the establishment of private armed organisations was banned by proclamation rather than by law, which did not prevent the rise of unlicensed retinues. The number of these retinues did indeed fall, and the remaining ones shrank in size, but still under James I (1603–25) a list was drawn up showing that in case of need, 20,000 men on foot and 4,000 on horse could be made available from the retinues of nobles and prelates.

This persistence of retinues was encouraged not least because membership of the retinue of a lord dispensed one from participation in the general muster, a privilege that could only otherwise be claimed by the clergy, lawyers, members of universities and the inhabitants of towns with local self-government. At this time, all able-bodied men between 16 and 60 were called up to the muster, which was held to check possession of the prescribed weapons. Parade-like exercises, and considerable consumption of beer, were also regular features of the muster (this term also referring to the men themselves).

At the start of the Tudor period, the militia for its part was still based on the regulations introduced in 1181, and later updated in the Statute of Winchester, which prescribed the arming of able-bodied subjects, and their obligation in case of need to stand ready in their counties for defence of crown and kingdom. The first two Tudor monarchs were content with confirming this statute, but sought at the same time to popularise archery as a popular pastime (the bow requiring long and regular practice in order to be effective militarily), and assert the obligation to provide horses.

Responsibility for the militia fell to the Justices of the Peace. From 1535, however, special representatives were engaged to support these. They were supposed to check on fulfilment of the conditions of the Statute of Winchester for a term of office of three years. This form and manner of organisation of generalised armed force was scarcely ever discussed as a problem, so long as, on the one hand, recruitment by the great nobles still functioned to a sufficient extent, while, on the other hand, there was no immediate threat of invasion. For several reasons, however, the traditional practice of recruitment grew precarious in the course of the sixteenth century: primarily because noble families began to reduce the employment of private armed force in their own exercise of rule, once other practices proved equally successful and above all less costly in terms of possessions and prestige. (Even if the income situation of the high nobility, as McFarlane has pointed out, was generally no worse in the sixteenth century than a hundred years earlier, traditional outgoings had grown considerably more expensive in the meantime.) The professionalisation of administrative capacity had also reduced the number of armed men in the noble households, since it was no longer necessary for every male member of the household to be seen as a potentially active knight, at least not as a particularly effective one. One of the preconditions for the former practice of recruitment was thus considerably weakened, even if not abolished altogether.

Recruitment by the nobles also lost its effectiveness because both poorer and better-off tenants increasingly refused to be enlisted by their lords for warfare. A formal obligation of this kind had in fact rarely existed, simply the traditional readiness (in fact established by force) to obey such a demand of the lord. The fact that this readiness began to disappear was ascribed by many contemporaries to a loss of military virtues among the English; others interpreted it as the result of an impoverishment that had been brought about by the practice of enclosure (by nobles and rich tenant farmers). The number of peasants who were strong enough to make good archers was thus supposedly reduced.<sup>85</sup> There is evidence however that peasants refused to be enlisted for deployment against their fellow-countrymen (for example to suppress the Pilgrimage of Grace), whilst the better-off tenants particularly insisted that they were not obliged to do military service.<sup>86</sup> This claim was now contradicted by a law of 1549, to the effect that anyone who refused enlistment by his lord for military purposes would lose his land. Whereas tenants insisted on a purely economic relationship of dependence, the centralised power sought to shore up the traditional personal ('feudal') relationship. That conflicts of this kind scarcely arose after this time relates to the decline of the old recruitment practice that has just been described. This was greatly accelerated when the great monasteries were closed in the wake of the Reformation, and bishops were no longer obliged, as vassals of the king, to contribute to recruiting armed men.<sup>87</sup>

Because the crown realised that its plans to establish a standing army in the mid-sixteenth century were most likely not achievable, its first reaction to the changed situation was to adapt the regulations of the Statute of Winchester, in 1558, to the development of new military techniques.

For the purpose of modernisation, the whole population (including the nobility) was divided into ten income categories, and it was prescribed for each of these what weapons they had to obtain and keep ready. No English military historian neglects here to cite the provision which – irrespective of their ascription to a particular class of income – obliged those subjects to provide a horse whose wives wore velvet robes and silk petticoats. The new stat-

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<sup>85</sup> Cited after Goring 1975, p. 187.

<sup>86</sup> Goring 1975 p. 190.

<sup>87</sup> Goring 1975, p. 189.

ute also laid down fines for either failing to appear at the muster, or appearing insufficiently equipped.

The modernisation of the militia was really accomplished only under Elizabeth I. Over and above the precise supervision of existing provisions, the new organisation had two particular characteristics: the establishment of 'trained bands', divisions of militiamen who from 1573 were trained by regular exercise in the use of the firearms; these were first of all promoted by the government, and then legally prescribed. On top of this was the appointment, delayed for a while but after the rebellion of 1569 generally completed, of 'lords lieutenant', successors of the formerly powerful sheriffs, and responsible now also for the organisation of the muster. Just as formerly with the sheriff, the crown could scarcely avoid appointing influential nobles as lords lieutenant. (Elizabeth even appointed certain nobles known to be Catholics.) By strict control of the lords lieutenant, however, the Privy Council sought to prevent the rise of regional potentates, so that generally about half the members of the Privy Council themselves served as lords lieutenant in the counties. These royal commanders were accompanied by 'deputies lieutenant', later on for their specifically military functions in the counties by the unloved 'muster masters', as well as by the 'provost marshal', who in case of rebellion or uprising exercised the power of military justice (by special appointment of the crown).

The militia was now commanded by members of the local lower nobility. The prevailing view among these was that selection of officers for the militia should correspond to the social position of gentry families; experience in warfare, or physical and intellectual abilities, remained of rather secondary importance. This worked against the partial professionalisation of the militia that had been aimed at, but, on the other hand, gave the English militia a paternalistically coloured local patriotism that became an organisational characteristic.

The heightened effectiveness of the militia was promoted by the crown's military policy. Without the support of the great nobles, however, it would have been impossible to realise. Such support was lacking in towns enjoying self-government – with the exception of London. The recruitment of able-bodied men and their regular training took place there only on a limited scale.

Because, in the late sixteenth century, the local nobility wished to counter a possible invasion, and, in this political climate, involvement in the militia

became a badge of social status, it was possible – despite the immense administrative obstacles and the lack of widespread military expertise – for a remarkable military mobilisation and training of the able-bodied male population to take place. (Moreover, at this time the crown also enforced the obligation of clerics to participate materially in the militia – by providing horsemen and foot soldiers, or paying corresponding sums of money: a post-Reformation substitution for earlier obligations incumbent on bishops through their vassal status.)

With the end of the invasion threat, the possessing classes were less willing to implement the crown's military policy. The number of trained men in the counties declined, and the gaps between military exercises increased (though there were large regional differences in both respects). With the 'deputies lieutenant', who now emerged as specialist administrators of the military power, there was frequent conflict over the level of contributions and especially over the payment of the 'muster masters' that was imposed on the counties. Their office was generally viewed as unnecessary.

In the first years of James I's reign, the crown abandoned any energetic military policy. When Charles I (1625–49) then sought to press through the principle of an 'exact militia' (by which he understood the 'exact' following of the prescribed regulations for recruitment, arming and training), and brought training officers in from the Netherlands for this purpose, individual and collective local refusal frequently escalated into open resistance. In the changed political conditions, the legal basis of orders from the Privy Council and measures taken by the deputies lieutenant was now put in question. The militia was thus in practice largely lost to the crown as an instrument of its rule. Conflicts over contributions to the salaries of the muster masters may well have turned on the level of this financial burden, but the underlying issue was estate possession of the local military organisation. As Boynton stresses, the (rural) nobility were on the whole totally successful in these conflicts. The crown could continue to make orders for militia arrangements, but the disciplining and training of militia members remained beset by political struggles.

Even before the revolution of the mid-seventeenth century, there was at least a tendency for military force in England to be more an estate possession than an element of the king's personal power. The fact that in times of far-reaching military-political agreement between the ruling estates and the crown (which, in case of an invasion threat, would extend to large sections

of the population), the crown could abandon traditional arrangements and implement new ones, is simply the other side of the phenomenon that the English crown could not appropriate *de facto* control of armed force. It is true that privately organised armed force declined in the course of the sixteenth century, and was controlled more strongly than before by the central government. But it was only the military forms of securing the private power of the nobility that declined. What emerged in their place – though on a much broader estate basis – was the local organisation of generalised armed force, involving also the lower nobility. This was designed to serve in the first place as defence against internal ‘enemies’ as well as against foreign invasion. In principle at least, the militia was therefore only obliged to serve in its county of origin.

Already under Elizabeth, however, then more frequently under the early Stuarts, whole divisions of ‘trained bands’ were deployed not only in other counties, but even abroad. This may well have been in connection with military enterprises that Elizabeth I, and later Charles I, undertook on the Continent, and only to the tune of a few thousand men. But, together with the difficulties of finding guards for the coastal fortresses and those in Ireland, this required so much recruitment that quite regularly from the turn of the century thieves and ‘vagabonds’ were given the choice of draconian punishment or serving the crown, while age-old regulations were flouted by sending even militia soldiers abroad.

As far as the actual army – as distinct from the militia – was concerned, sources agree that this was militarily ineffective under both Elizabeth and the early Stuarts. It did, however, develop into a *profitable source of income for officers*. For it was customary among officers to draw money for soldiers who had already been discharged, to appropriate money designed for recruits, and to pawn uniforms. A private trade in officer commissions arose on the basis of opportunities of this kind. Since the majority of officers lacked military experience, no officer estate as such developed in England, one that would have an interest in professionalisation and hence in political measures to reform the army. From the standpoint of military efficiency, the English army under the reign of Elizabeth and the early Stuarts was of little significance.

This was not true to the same degree for *armed force at sea*. But the crown remained dependent in this period on the collaboration of seafarers who regularly waged war on their own account with the blessing of the crown, which



shared in the spoils of these privateers. If the crown sought to use privateers as an instrument of its own policy, however, there had to be good prospects for lucrative robbery – or else a serious threat to the kingdom.

The potential armed force that the English crown disposed of was great. Since the reign of Henry VIII, however, this potential was only to a certain degree available for dynastic strategies. Though decision on peace and war continued to be a prerogative of the sovereign, the privileged estates increasingly took *de facto* possession of disposal over armed force.

### *Religious power*

The subjection of the church to the rule of the crown, which was implemented in formal terms by the crown and Parliament of England between 1532 and 1536, signified the removal of the kingdom from the rule of the pope.

In 1532, the English crown requested (and received) the subjection of the English clergy to its legislative power; in 1533, a law abolished the Roman curia as an instance of appeal for legal processes in the English kingdom, and thus made the English king the unrestricted sovereign. In 1534, the pope lost his income from England (annates and tithes), and a papal bull on the appointment of an English bishop was declared illegal. In 1534 the crown's power of investiture was made explicit, and the subjection of the clergy, already declared in 1532, was fixed by law. In the same year, the king's marriage to Anne Boleyn was declared legitimate by the first law on succession to the throne. It now became high treason to challenge this. The oath to the succession that every adult Englishman was supposed to swear thus indirectly denied the legal supremacy of the pope. The preamble to this law of succession declared the king the spiritual head of the English church, and as a consequence ascribed him the right to correct heresies.

The dissolution of the monasteries began in 1535. The following year, papal rule over England was declared 'abolished', and it henceforth became heresy to dispute this.

Until a few years ago, scholars were in broad agreement in treating the appropriation of the pope's spiritual power by the English crown, along with the legal implementation of church reforms (in the Bishops' Book of 1537 and the Canons of 1640), as the process of the 'English Reformation'. More cautious analysis saw the Elizabethan settlement (1559) as completing the legal establishment of Protestantism. In A.G. Dickens's great depiction of

the English Reformation, published in 1964, the chapter following that on the 'revolution of 1559' is entitled 'remaining problems'. In connection with this interpretation of Reformation history, Elton subsequently raised the question as to *how* such a revolution could have been carried out. For, despite the anti-clericalism that was certainly already present, the Henrician Reformation was undoubtedly a matter of political measures and could not be interpreted – in the way that earlier research liked to see it – as the expression of a popular movement for reform of the corrupt medieval church. Elton attributed the success of the Henrician Reformation to *policy* and *police*: strategies of propaganda, patronage and other means of persuasion on the one hand, measures of control and repression on the other, especially effective administration. In this interpretation, the English Reformation would be one of the most striking historical examples of a 'revolution from above'.<sup>88</sup>

Patrick Collinson, on the other hand, subsequently pointed out that a contemporary of the Elizabethan settlement described it as 'a constrained union of papists and Protestants',<sup>89</sup> while Margaret Bowker concluded from her very thorough investigation in the diocese of Lincoln that up to the death of Bishop Longland in 1547 this diocese had remained conservative (i.e. against the reforms), as had the bishop himself.<sup>90</sup> She was quite generally of the view<sup>91</sup> that, at the end of the reign of Henry VIII, the struggle for the faith of the English people was still very far from being decided in favour of Protestantism. These findings have focused scholarly views on the almost problem-free return to Catholicism and papal supremacy under Mary (1553–8), long overlooked by a focus on the burning of particular Protestants and the flight of others.

The following quotation from J.J. Scarisbrick's study of *The Reformation and the English People* will indicate the tenor of recent revisions of English church history:

The impression derived from churchwardens' accounts is that altars, roods and rood lofts, statues and holy-water stoups and so on were taken down in Edward's reign, put back up in Mary's and taken down again after Elizabeth's accession without great drama or disorder. The accounts that survive,

<sup>88</sup> For more detail on the Treason Act, see Elton 1972, Chapter 6.

<sup>89</sup> Cited in Collinson 'The Elizabethan Church and the New Religion' in Haigh (ed.) 1984, p. 173.

<sup>90</sup> Bowker 1981, p. 181.

<sup>91</sup> Bowker 1981, pp. 184 ff.

a fairly random scattering of parishes across the country, show that men had to be paid to do this work.<sup>92</sup>

He adds data on the considerable degree of continuity of English church personnel. Thus 40 per cent of the clergy who held office in 1576 in the diocese of Lincoln had already been ordained before 1559. In view of the attitude of many high officials of the church, and those who held power over appointments, even a later ordination gives no guarantee of a Reforming position.<sup>93</sup> The relative failures of Protestant missionarising of the population are easier to understand in the light of the fact that only a small part of the clergy were entitled to preach (i.e. were theologically trained). In Lincoln and Stow their number in 1576 was only 51 out of 396 clergy, and in the large diocese of Coventry and Lichfield the figure as late as 1590 was just 51 out of 595, less than a tenth.<sup>94</sup>

Christopher Haigh sums up recent conclusions on the 'long Reformation' as follows:

For a decade or more, the Church of England was a Protestant Church with many Catholic churches; for even longer, it was a Protestant Church with many Catholic, or at least conservative, clergy.<sup>95</sup>

Patrick Collinson sees the Reformation, understood as an actual change in religious practices, as a development that can only be seen as provisionally concluded towards the end of Elizabeth's reign.<sup>96</sup>

By an increased emphasis on questions of religious history, and criticism of a church history that had been oriented above all to change in the formal structures of rule, the Reformation is today seen not so much as an 'event', but rather as a long process of change in mentality.

At the same time, however, the character of the Reformation as event has also been criticised in the narrower context of political history by reference to the fact that the subordination of the English church to the crown had in practice been effected already by the end of the fourteenth century, to such a degree that the formal abolition of papal supremacy did not create a funda-

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<sup>92</sup> Scarisbrick 1984, p. 89.

<sup>93</sup> Haigh 1984, p. 197.

<sup>94</sup> Alexander 1968, p. 25; Haigh (ed.) 1984, p. 185.

<sup>95</sup> Haigh (ed.) 1984, p. 197.

<sup>96</sup> Collinson 1982, *passim*.

mentally new situation.<sup>97</sup> By emphasising this state of affairs, moreover, it is easier to understand why the English bishops followed the decree subjecting them to the crown without notable resistance.

In this interpretation, the English Reformation appears rather as the natural consequence, deliberate and carried through to its end, of a notion of royal rule that, in practice, already characterised this rule in England. In his biography of Henry VIII, indeed, Scarisbrick has convincingly shown how a satisfactory solution of the divorce question (more accurately, the question of annulment), say in 1531, would not have meant any change in the policy of separation from Rome, since this had already arisen as a consequence of the challenge to pope's judicial authority.<sup>98</sup>

The Henrician Reformation was a power struggle in the course of which the crown appropriated the judicial and fiscal power that had previously belonged to the pope, simultaneously expanding the material basis of its rule. Whilst the king's annual income before the Reformation amounted to no more than £40,000, it was close to three times as much after the dissolution of the monasteries.<sup>99</sup> Before the Reformation, the church had almost a third of the country in its possession,<sup>100</sup> but lost a considerable part of this material basis for the rule of its dignitaries even before the more far-reaching expropriations under Edward and Elizabeth. The dissolution of the monasteries also reduced the lords spiritual of England by almost a half. The 'abolition' of abbots led to a drastic secularisation of the House of Lords. For the first time, secular nobles were now in a majority there, a fact that is not without its bearing on the further course of the Reformation, and other developments in church history as well.

From this point of view, the Reformation differed from earlier conflicts between king and pope above all by the extent of the victory of the secular power, and also by the fact that all relevant political decisions would now be determined by laws of the king and Parliament. (There were different views in church politics as to the proper relationship between crown and Parliament. We do not need to go into these variants of Erastianism here.) That the participation of Parliament did not constitutionalise the crown is made

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<sup>97</sup> Harris 1963, pp. 13–17.

<sup>98</sup> Scarisbrick 1968, p. 296.

<sup>99</sup> Cross 1979, p. 69.

<sup>100</sup> Alexander 1968, p. 30.

clear by the fact that a convinced Catholic queen could abolish the Henrician Reformation two decades after its legal promulgation. On the other hand, the Elizabethan religious settlement of 1559 shows how the influence of Protestants in the lower house considerably modified the crown's proposal.<sup>101</sup> It may be the case, moreover, that experience of the revision of church policy under Mary provoked efforts to restrict the royal prerogative in the sphere of spiritual power.

The Reformation led to a shift in the possession of power. This was so far-reaching that we may speak of a *change in the system of rule*. Yet the significance of the Reformation is not confined to the redistribution of power. For in the Middle Ages and even under the *ancien régime*, religious power had drawn a dividing line between superstition and Christian belief,<sup>102</sup> between 'good order' and sinful existence, and between legitimate rule and brute force. Legitimate rule in the Middle Ages – sanctioned by symbols designated by the church – had been based on the doctrines of the church being accepted as truth. If, in 1536, what had previously been taken as true was now declared to be heresy, and former church practices defined as superstition, this was not only a shift in the structures of rule over religious power, but nothing less than an abolition of the dividing line between 'good order' and depravity. If the attack on papal supremacy was not at the same time to shake 'good order' and the legitimacy of rule in the English kingdom, a corrected truth had to be sanctioned in the place of that formerly dominant, not only to meet propaganda requirements, but also for the sake of the spiritual peace of the ruled. For this reason, criticism of papal supremacy was quite irrevocably bound up with a decision on the Reformation of the church. This made indispensable a political tack towards those few individuals and groups who had long been demanding such reform.

In England, as elsewhere, there was widespread anti-clericalism. This found expression in express demands for reform in the Parliament of 1529. There was theological criticism among those (especially well-to-do burgesses with foreign connections) who were aware of Luther's theses and had been influenced by them, among theologians themselves (in the circle around Cranmer, especially), and also among the Lollards. According to reports, these latter

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<sup>101</sup> Dickens 1968, Chapter 12, esp. pp. 294 ff.

<sup>102</sup> Thomas 1982, esp. p. 56.

lay critics of priestly rule were numerous in the first decades of the sixteenth century. They were certainly often prosecuted.

But, because none of these reforming tendencies in England would have had a prospect of success, the political decisions of crown and Parliament must be seen as the *catalyst* of a new religious development.

The 1530s brought the legalisation of Bible reading by the laity, a certain freedom (at first scarcely restricted) to discuss questions of religious faith and practices,<sup>103</sup> the distribution of religious texts (partly controlled by the government) and especially the official promotion of biblical translation along with an official order to read out passages from the translated Bible in religious services: first of all the New Testament from start to finish, then the Old Testament. Not all of this reached every village, and it was certainly not approved by all clergy. Besides, the fact that the same clergy who had received confession before the Reformation still continued by virtue of their office to dominate the confessional<sup>104</sup> made the new freedom of Christians extremely precarious. The king may have exaggerated when in his last speech to Parliament (24 December 1545) he complained that 'the most valuable jewel, the word of God, is scattered in every bar and inn, set to rhyme, sung and squawked',<sup>105</sup> yet also exemplary is the reaction of a shepherd who wrote in his New Testament in 1546, while 'guarding the sheep on Seynsbury Hill', that he had bought this book when shepherds were forbidden to read the Bible, and prayed to God to 'help us against the blindness' (of his superiors). For in 1543 the government passed a law once more forbidding 'women, workers by hand, journeymen, day-labourers, serving people below the rank of yeomen...' – i.e. the lower orders – to read the Bible.<sup>106</sup>

Even before the king, many bishops were extremely agitated by the revolutionary implications of decisions on church policy that they had themselves had a hand in. Yet the efforts to restrict the reform that grew in the 1540s, among bishops and at court (as early as 1539, reforming statements of belief were again withdrawn in the 'six articles'), were not exclusively spurred by fears of this kind. For the appropriation of religious power by the crown fundamentally linked interests of appropriation and enrichment with questions

<sup>103</sup> Cross 1979, p. 71.

<sup>104</sup> Cf. on this Elton 1972, p. 30.

<sup>105</sup> Cited after Dickens 1968, p. 190.

<sup>106</sup> Dickens 1968, pp. 190 ff.

of belief, and consequently with orientations of church policy. For this reason, both battles over patronage – such as were involved in the king's marriages – and different views of the crown's foreign policy were all fought in the context of 'factions' defined by church policy.

The revision of the course initially embarked on could not efface the fact that by giving permission for the laity to read the Bible, a direction had been taken that would be a precondition both for the real reformation of the church in England, and also for the development of Puritanism. For, although within the English church – especially after the Elizabethan settlement – the aim was not so much to control people's beliefs as to enforce conformity with prescribed religious practices (in particular, Sunday church attendance), many convinced Christians developed into critics of their church. They were concerned with the reform of their own lives, but also with the establishment of a church and society that would be pleasing to God. This 'Puritan' mentality found its initial expression in regular Bible readings in a circle of family and friends. Such behaviour was initially directed neither against the established church, nor against the established power – I follow here Patrick Collinson.<sup>107</sup> It aimed rather at a change that in an anachronistic secular terminology could be described as the moralisation of society (including its exercise of rule). This was very likely a 'revolutionary' point of view (a point we shall return to), but revolutionary in the sense of a gradual change in the existing structures of rule rather than their abolition.

As Collinson has convincingly shown, the causes of the 'Puritan revolution' should not be shifted back to the sixteenth century, nor even to the first decade of the seventeenth. Yet the Puritanism of this time, even if not yet expressed in terms of religious separatism (though this did exist in isolated cases already at the end of the sixteenth century), did signal a religious-political danger. For, in their zeal to promote piety, it was far from rare for Puritans to stir up discontent: between themselves and those whom they deemed to be far too lax in their Christianity.<sup>108</sup>

Puritanism should be generally seen, in its various tendencies, as a far-reaching development of the emancipation of the laity, which was brought about or at least accelerated by the government decisions of the 1530s. In the

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<sup>107</sup> Collinson 1982, p. 274.

<sup>108</sup> Collinson 1984, p. 174.

rule-structured conditions of life of the late sixteenth and early seventeenth centuries, a religious lay movement – whether separatist, semi-separatist or simply within the church – meant a shift in social structures. Even if Puritanism was not even pre-revolutionary in the sense of challenging the existing rule, it brought into the world of the English kingdom a new way of viewing such rule. *To this extent*, Puritanism indirectly led to that ‘struggle against the old order’ that R.H. Tawney attributed to it.<sup>109</sup> But the Puritans are no longer seen today as having posed a danger to the Elizabethan church.

More recent historical interpretations, on the contrary, increasingly follow the frequently expressed view of contemporaries that the state of the church was rather endangered by the remaining supporters of the old faith. Whilst there was no further major Counter-Reformation uprising after the Pilgrimage of Grace in 1536, there were both refusals and express protests by clergy and laity, as well as sheer ignorance of the foundations of the new belief – as evident from visitations.

There was also a shake-up of institutionalised forms of social life. Charles Pythian-Adams has shown how in Coventry before the Reformation all celebrations in the first half of each year had the character of ecclesiastical ritual, and those in the second half a secular character. After the Reformation, the feasts of the ecclesiastical first half were not replaced, and hence a large part of the institutionalised forms in which an organisation of society and rule had celebrated its particular structures disappeared.<sup>110</sup> The loss of these feasts, along with practices that were well-loved or at least old-established, provided an important basis for the success of Counter-Reformation tendencies which for a long time were attributed more to the preaching of priests who had secretly returned from the Continent.

The Reformation also produced amongst supporters of the old religion a new readiness to bear suffering for the sake of their faith. English Catholicism was itself changed by the Reformation. Mary already found it impossible to restore the church that had previously existed. It was not just that she did not dare to reverse the expropriation of monasteries and bishoprics, or that the pre-Reformation type of bishop, who had been a great magnate at court, had

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<sup>109</sup> Tawney 1922/1938, p. 199.

<sup>110</sup> Pythian-Adams 1972, pp. 57–85.



largely disappeared;<sup>111</sup> by the 1550s the laity no longer had the same attitude towards the church they had had in the 1520s. This is true as much in respect to the old faith as to that 'primitive Protestantism'<sup>112</sup> that had begun to spread. After it had been re-introduced by government policy, the old religion was practised by many only in the sense of outward conformity, but by some also with a new conviction. In so far as the latter then found themselves under Elizabeth being forced to practise their religion in secret, this brought about a *de facto* re-assessment of the role of laity in the Catholic community. It does not contradict this that at the same time, a militant and authoritarian tendency preached especially by the Jesuits came to prevail in English Catholicism.

The fact that local officials so frequently lacked local support in punishing Catholics from the better strata of society (exemplary punishment was generally confined to these),<sup>113</sup> indicates that Catholics could often give a credible example at the local level of what they themselves claimed was possible: loyalty both to the queen and to the Catholic faith. In actual fact, however, this conviction was just as subversive as was assumed in the intensified penalties against recusants. This was not because all Catholics were pro-Spanish or enemies of the queen, as was widely supposed, but because they claimed a separation between politics and religious conviction, the privatising of religion – and this at a time when the unity of secular and spiritual power in the English kingdom had been reinforced in new forms by the Reformation.

For the development of the *ancien régime*, the fact that the actual change in the English church had been largely brought about by laity and lower clergy was of great significance. The government might well decree that on Sunday the translated Bible should be read out in church, but it could not control this. Together with the right of visitation (restored to them by the king after the Reformation), the bishops had been saddled with the task of actually carrying out the Reformation, but they did not really possess the means for a regular control of religious practice. If it is said of the Jacobite church of 1603–25 that it was a Protestant church that was theologically not very consistent and disguised by many traditional (Catholic) rites, this had been chiefly brought about neither by the laws enforcing unity of belief nor by the control

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<sup>111</sup> Smith 1953, p. 284.

<sup>112</sup> Brooks 1980, pp. 119–34.

<sup>113</sup> Williams 1979, p. 282.

of the bishops. It had been brought about far more by laymen concerned with obtaining good preachers.

Many of those who possessed the right to appoint a parish priest [*avowdson*] made qualification to preach a criterion of selection, while others increased the income of a parish in order to obtain a qualified appointee, and others again – especially in the towns – financed ‘lectureships’ from their own funds. Since the sale of monastic properties had transferred the greater part of their rights to appoint clergy into private hands (in general, confirmation by a bishop was a formality), responsibility for the incumbent’s ability fell principally to the laity. It is true that the crown still kept certain nomination rights for lower clergy – in the reign of Elizabeth, about a hundred positions each year were invested by the crown – but with the sale of monastic properties the crown had surrendered the most important means of reform. Because of the increased interest of the laity, the actual influence of this should not be seen as an obstructing one. The improvement of income opportunities for preachers meant that the number of livings from which university graduates could draw an income commensurate with their status had considerably risen by the start of the seventeenth century.<sup>114</sup> This, in turn, had the result that qualified young men, who would otherwise have sought a different career, began to interest themselves in the clerical profession. This did not guarantee their piety, but it did make for a higher level of theological knowledge among the church personnel.

The improvement in the material situation of at least a part of the lower clergy was a precondition for the integration of the clergy as an estate into the structures of rule of the English *ancien régime*, which, in the present context, has a significance that should not be undervalued; squire and parson were to remain twin pillars of the de facto established ‘good order’ in rural areas, throughout almost the whole of England. Though not so well-off as the gentry, local clergy would be invited to dine with these, and made acceptable marriage partners for their daughters. The social rise of the local clergy and their integration – in which marriage played a large part – into the estate structures, tended to make the personnel of the Church of England participants in the generalised estate power: into ‘pseudo-gentry’ (P. Collinson). The (limited) integration of the clergy of the Church of England into the circle

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<sup>114</sup> Collinson 1982, p. 95.

of wealthy landowners (along with the condescending attitude of the gentry that frequently went together with this) found expression in the game that the squire supplied to the parson's table, and the participation of the parson's family in the social entertainments of the landed nobility – later to become the preferred setting for love, passion and the final victory of good morals in the English social novel. Even if this only raised most of the local clergy to the position of 'pseudo-gentry', and their fuller integration into the landed nobility was possible only by kinship connections, the route taken by the 'nationalisation' of the English church did not end with the break with Rome, but led onto the participation of the lower gentry in the practice of estate rule.

In the course of time, the integration of the church into the structures of estate rule also brought about a (partial) reform of the church's internal structures. These were initially not affected by the Reformation, or at least not formally. The rule of the bishops remained in place, and dioceses were to a large extent unchanged since the early Middle Ages. (There was no reorganisation by Henry VIII, and only two new foundations.) The resources available to the bishops for their rule, however, were not very considerable, despite the judicial power granted them, likewise their influence on the selection of clergy. Yet the bishops were still powerful lords of the church at the start of the seventeenth century. They may well have lost income by the expropriations of Edward VI and Elizabeth. They could scarcely avoid using rank and favour to seek further positions if they wanted to maintain their respect, which continued to demand upkeep of a large and hospitable household, and possession of a retinue. The Elizabethan bishops liked to appear as much as possible like their predecessors in the fifteenth century – for example, when they arrived in a town with a large retinue, were summoned to Convocation (the assembly of bishops that met separately from Parliament), or took their place in the upper house – and some of them were still in a position to provide their queen with a considerable number of armed men in case of need, thus showing themselves both magnates of the English nobility and loyal vassals of the crown; at the same time, however, their material position as well as their standing within the nobility had been fundamentally changed by the Reformation. Above all, this had changed their position within the church. For, despite the institutional persistence of the traditional forms of episcopal rule, a new guiding image for the clergy had come to prevail from the late sixteenth century: that of the parish priest. Even the bishops were not uninfluenced by this, as Collinson

shows.<sup>115</sup> Many now sought to combine the behaviour of noble lords with the practice of the cure of souls. Particularly significant here is the cohesion of secular and spiritual estate rule in a close dovetailing of judicial practice. The commissions of Justices of the Peace, the judicial courts of the archdeacons (responsible for subdivisions of a diocese) and the manor courts were separate institutions; at least they sat separately. They had at least partially separate responsibilities and different powers of punishment. But if the courts of the archdeacons – apart from the punishment of minor excommunication – could only impose formal penalties or the substitute payment of special contributions to the poor box, their supervisory function in upholding moral prescriptions was in no way a secondary matter. It was on the contrary a key point of Elizabethan legal practice.

The number of documented condemnations for sexual offences, breach of marital duties, loose speech, neglect of church attendance, brawling and blasphemy is considerable. This did not just affect members of the lower orders. It was certainly the case that the gentry were prosecuted mainly at episcopal courts, but occasionally – particularly in cases of ‘recusancy’ (i.e. neglect of church attendance and communion) they might also appear before the archdeacon.<sup>116</sup> The large number of condemnations by the church courts demonstrates on the one hand the frequently delivered verdict that the English people were on the whole ‘ungovernable’, i.e. not fully in thrall to the ‘secular development’ of social disciplining, while on the other hand the effectiveness of these courts in terms of public order depended on the collaboration of judicial institutions. The best evidence for this is given by all those conflicts in which this collaboration was lacking and hence local order was considerably damaged.<sup>117</sup> For without local support and recognition, the church’s autonomous judicial power was greatly confined, even if it was promoted by the crown. This is especially shown in the punishment of ‘recusants’. As long as this was simply a question of Catholics, prosecution generally remained confined to prominent individuals, on whom fines were usually imposed by way of example. If the offenders were particularly prestigious, the imposition of these penalties was the responsibility of episcopal commissions. The activity

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<sup>115</sup> Collinson 1982, Chapter 1.

<sup>116</sup> Emmison 1973, p. 32.

<sup>117</sup> For examples, cf. Collinson 1982, Chapter 4.

of these, however, was combated by the gentry, who saw this as an encroachment on the local structures of estate rule. When the laws against recusants were sharpened in 1584, the imposition of the law was transferred to purely secular judicial commissions. These could only intervene on the basis of a report from the local secular and spiritual instances. Their effectiveness was thus subject to preliminary considerations of local politics.

If religious power could only involve itself judicially with good order with the support of the local ruling estates, the Reformation also brought a shift in secular judicial power. For conflicts over questions of faith and the requirements of piety at a local level led – even if these tendencies should not be overestimated in their practical effect – to a redefinition of the meaning of ‘public office’ – to a *moralising of rulership*. This was possible because the Justices of the Peace and their estate colleagues also included Puritans, or at least Christians who demanded both of themselves and others that they should regard their secular offices as a work entrusted to them by God. The moralisation of rule meant a redefinition of the habitus of the ruling estates, above all that of the gentry. Patrick Collinson sees this reorientation of what was in practice an already established ruling estate (Collinson says ‘class’) as the real ‘rise of the gentry’.<sup>118</sup>

The cultural transformation of the notion of rule was certainly promoted in the main by members of the gentry, but in no way was it exclusively developed by them. Rather, the moralising of rule under the English *ancien régime* was also a product of the *public discourse* – partially independent of power – that developed in the wake of the Reformation. This found expression in the distribution of religious tracts, in conflicts over seating in the church,<sup>119</sup> but above all in the claim persistently made by Christians to the right to read the Bible for themselves and pursue with other Christians a way of life pleasing to God.

#### *Sanctioning of conditions of appropriation by ruling power*

In the two centuries before the partial revolutionising of the *ancien régime*, the conditions of material reproduction of a large part of the English population underwent a significant change. Research has focused above all on the trans-

<sup>118</sup> Collinson 1982, p. 180.

<sup>119</sup> Collinson 1982, pp. 141 ff., 194 ff.

formation of relations of production, and among these the change in practices of appropriation and the results of appropriation of members of the higher nobility and gentry. For a while, this last point was linked with the question of the causes of the 'English Revolution'. This has not been good either for analysis of the social causes of the revolution or for the discovery of groups bearing the processes of capitalisation (cf. below).

In the following section, we shall deal with change in conditions of reproduction exclusively from the standpoint of their being sanctioned by the ruling power. This restricts the presentation to those characteristics of appropriation that formed structural peculiarities of the epoch of the *ancien régime* (cf. Part Five, 1 and 2). In this analytical context, two aspects of the *structural change in the countryside* are particularly important: the dissolution of traditional convergences of interest and the sanctioning of private relations of exploitation by the generalised power.

New convergences of interest especially arose in connection with strategies of commercialisation. Recent research has come to see the general level of commercialisation as somewhat less than was previously thought. Even in the early seventeenth century, very many peasants still oriented their production almost entirely to the goal of providing for their own household. The money that they needed to pay for supplies and if necessary also for taxes (the poorer peasant families generally escaped direct taxation), they sought to obtain by occasional wage-labour and domestic work. Even among the nobility, orientation to marketable sources of income was in no way universal at this time. Instead, many members of the higher nobility and upper gentry persisted in forms of production that could serve as the basis for a hospitable household and the needs of a retinue. As regards the readiness of peasants to hire themselves out for war service, for example, only those lords could hope for this who did not seek to extricate themselves from the structure of traditional rulership. But despite this, many members of the upper nobility and gentry, and even many richer peasants, made use of the prospects for appropriation that were offered by sales opportunities both at home and abroad.

Strategies of commercialisation did not always compete with the reproduction prospects of those who could not make use of these – at least not initially and not in every case.<sup>120</sup> As long as villages were almost depopulated, peasant

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<sup>120</sup> Thirks 1984, pp. 70–6.

holdings unoccupied and common land only little used – as was still the case many decades after the Black Death of the mid fourteenth century – commercial strategies of individual landowners, such as were expressed in enclosures, engrossing of farms, and the transformation of agricultural land into pasture, did not necessarily threaten the reproduction prospects of the poor rural population. This changed however as the population grew, entry fines for tenures were abolished and freehold tenancies were so reduced as a result of divided inheritance that use of the common land became an indispensable condition of material reproduction. For many a younger son of peasants, the 'structural change in the countryside at this time meant the inability to found a family of his own, if he was not actually forced into vagabondage in search of a livelihood of some kind; for many families it brought the loss of that provision, experienced as a 'good life', which their grandparents' generation had enjoyed. On the other hand, other peasant families of this time expanded the land in their possession by purchasing or leasing, especially in the grain-producing areas. To cultivate this they employed labourers (not uncommonly their poorer neighbours). The wages that they paid fell ever further behind the inflationary trend of prices from the mid sixteenth century on.

Of the two or three more prosperous yeomen that there generally were in each village, many now sought, just like the lords, to stop pasture being divided up into fields, which at this time were not yet enclosed. But they were certainly quite prepared to accept the enclosure plans of the lords if they could participate in these themselves. By way of declarations of agreement of the 'inhabitants', however, enclosures were made legal – apart from a few individual cases that were declared 'unjust'.

In this way, there arose a (partial) convergence of interest among those with commercially oriented agricultural 'enterprises'. It was not rare for such an interest to be conflict with that of the poorer peasants, who had always been oriented towards use-value.

The dissolution of earlier convergences of interest brought about the structural preconditions for the particular English form of transition from feudalism to capitalism in the countryside: the prevalence of profit interests at the expense of independent small-peasant modes of existence.

Strategies of this kind were successful because, whilst the English peasants had indeed succeeded in winning their personal freedom – the last of them,

however, only in the first three decades of the seventeenth century<sup>121</sup> –, this generally did not automatically mean private property in their tenures; their possession of land remained subject to restrictions, differing from one manor to another, that were set down in a *copy of the roll of the manor court* (hence the term ‘copyhold’).

Even peasants who now held their land in the form of copyhold rather than freehold obtained in the course of the sixteenth century the protection of their rights of possession by the general judicial power. The first steps by which this was accomplished were the introduction of proceedings for ‘trespass’ in common law, or the appeal to the Chancellor, who could make decisions outside the common law on the principle of equity. This legal protection, however, still applied only within the conditions of copyhold. These were established in the context of decentralised rule. Whether a peasant holding was heritable under conditions of freehold, whether it remained in the possession of a peasant family for one tenancy or three, or else for a fixed term, was decided between the tenant and the owner of the land. It was *within these limits* that the right of possession of copyhold tenures was sanctioned by the generalised power.

In so far as they had both courage and resources to make a complaint, peasants – at least free ones – could appeal to the judicial instances of generalised power against their lords. Recorded decisions in favour of peasants, however, should not deceive us into thinking that judicial neutrality did not sanction structures of exploitation. Justice marked the legal limits of these at the time, as well as the legal ways of appropriating land that had previously been given out on lease. For on the expiry of a ‘customary tenure’ (thus for example after the course of ‘three lives’), land could be demanded back and newly offered on different terms. In the decades-long scholarly dispute about the legal protection of copyhold (arising from R.H. Tawney’s work of 1912), it has partly been overlooked that this protection only ever applied to those peasant rights of possession that were not restricted by the ‘copy’. Since the English peasantry – in contrast to the English nobility – had been successful only to a limited degree in their efforts to appropriate hereditary possession of the land,

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<sup>121</sup> Kerridge 1969, p. 90.



the generalised judicial instance sanctioned the structures of exploitation that resulted from this failure. This changed the conditions of struggles over the forms of peasant exploitation. For resistance to the results of judicial decision no longer meant just resistance against the possessor of a manorial court, but resistance to the generalised power. This sanctioning function of generalised (judicial) power for the results of class-structured conflicts over the conditions of appropriation stands in apparent contradiction with the 'agricultural policy' decisions of the crown. For the repeated laws against enclosure give the appearance of a *regulation* of the conditions of appropriation by the crown and its parliament in favour of the reproduction requirements of the peasants.

The involvement of a small part of the ruling estates in this legislation, however, was certainly not sufficient to ensure its application. Two structural obstacles stood in the way of a policy of peasant protection. One resulted from the general limits on royal executive power. For as distinct from kingdoms where the crown had wider fiscal and military power, in England there was no social group that enforced the strategies of the crown and could limit local estate power. Since there was no class of officials depending principally on the crown for their social advance, the execution of laws remained dependent on the collaboration of those who wielded local power of office. Despite formal regulations, this collaboration was to a large degree in practice voluntary, and dependent on the agreement of those possessing local influence. The crown could well appoint special commissions to investigate abuses, and these did indeed reverse certain enclosures. But when such commissions were appointed in Edward VI's reign, to see that the letter of the law was upheld, it soon emerged that the crown was not in a position to carry through a policy counter to the widespread interests of the landholders. Since the peasant uprising of 1549 known as Ket's Rebellion was directed among other things against enclosures, the government of Lord Protector Somerset was ascribed responsibility for all the 'discontent' in the countryside. The second structural obstacle to a successful policy of peasant protection arose from the already discussed development of diverging interests among the villagers. Since many of the better-off peasants also had no interest in the legal protection of copyholders, the practical possibilities for exploiting all who abandoned copyhold tenures and sold their labour-power for a wage correspondingly broadened. If there were no major peasant revolts after the mid sixteenth century, this was a consequence of the divergence of interests among the village population. The

members of the ruling estates therefore had no occasion to effectively apply the laws against enclosures and combinations in their locality.

There certainly was a great deal of local resistance to these laws, which was punished time and again. But 'condemnations' of this kind amount on closer inspection to more like a kind of tax. They were not high, and could be taken into account by the landowners as a possible cost factor in the reorganisation of cultivation they planned to pursue.

In practice, the crown's policy of peasant protection had long been ineffective by the time it was formally abandoned – in the wake of the revolutionary transformation of the *ancien régime*. The regulation of reproduction conditions in the countryside by centralised power was essentially confined to sanctioning the limited property rights of copyhold tenants. (On bread policy, which also belongs in this context, see below.) This made it that much easier to exclude poorer peasant families from possession of land and thus at the same time expand capitalist relations of production in the countryside.

Besides the sanctioning of existing relations of exploitation by the resources of generalised power, the direct material participation of members of the ruling estates in *centralised appropriation* was a further structural characteristic of material reproduction in societies of the *ancien-régime* type. England was no exception to this participation. As elsewhere, it was spurred and accelerated by political conflict among members of the ruling estates. Yet both the extent of appropriation by the crown, and (as a consequence) also the material benefit that members of the ruling estates could draw from centralised power of appropriation, was comparatively limited when seen in the overall context of the ruling estates. As the partial revolutionising of the *ancien régime* proceeded, the possibilities of appropriation by participation in the centralised appropriation power were further reduced. The early configuration of a structural dominance of (individual economic) private appropriation forms one of the most important preconditions for the concrete political form of the development (and eventual dissolution) of the structures of rule of the *ancien régime* in England. It is from this point of view – which we shall later develop in more detail – that forms of material private benefit from centralised appropriation power will now be discussed.

Strategies of private benefit from centralised power of appropriation were confronted with the steady limitation of royal fiscal power, as this had been pursued since the twelfth century by barons and resisting peasants, and later

defended and expanded by Parliament and the obstructive practices of Justices of the Peace. It was not a very great sum, therefore, that could be obtained in the form of presents or payments for services rendered. Moreover, it could not be increased by the creation of new offices and powers to be sold off by the crown – as was the case notably in France. For the generalised estate rule over local government practice made the introduction of new offices possible only at the price of major conflict. (We simply recall here the struggles over the muster masters for the militia.) In view of their permanent financial problems – particularly pressing in time of war, despite the granting of taxes – the English monarchs used whatever opportunity offered itself to improve their income from crown lands and excise duties. But this was not that much. The security guarantees that Henry VII demanded from the great nobles were a politically precarious form of obtaining credit; income from the fiscalisation of forest rights, from ‘purveyance’ (right of lodging) and from the ‘ship money’ with which the inhabitants of coastal regions met their obligation to provide ships for the king, could scarcely be increased; regular presents could not be constantly demanded. There remained the sale of monopolies, to which we shall return, as well as the use of the remaining appropriation powers of feudal rule. To increase their fiscal yield, Henry VII established a special administrative department. In 1540, under Henry VIII, this became the court of Warde. For the management of wards, i.e. guardianship of tenures until the heir came of age, or more precisely, the sale of the right to make economic use of the tenure during the period of wardship, was the one feudal right that was potentially most profitable. The policy of the court of Warde can be deemed, at least initially, a political success but not a fiscal one.<sup>122</sup>

On average, in the years 1558 to 1599, the annual income from wards was £14,700. Elizabeth’s share in Drake’s pirate enterprises, on the other hand, very likely amounted in the period 1577–80 to more than a quarter of a million pounds. Income from wards would not even have sufficed to pay the annual interest on the crown’s foreign debts. In fact, the court of Warde could only be indirectly used for the monarch’s own benefit: in the second half of the sixteenth century, it sold wardships at approximately the same price, while grain prices and land rents rose almost threefold. The real price of wardships,

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<sup>122</sup> Hurstfield 1955, p. 56.

however, evolved to match the actual possibilities of profit. The difference went to the middlemen who arranged the sale. These were in almost all cases great men of state, including the holders of major offices. In this way they increased the nominally low reward for their services that they received from the crown. The level of their profit differed, depending on the concrete conditions of a particular wardship, on the particular market situation in this deal and on individual appropriation strategies.

From the reign of Henry VIII until almost the end of that of Elizabeth, the crown kept to the practice of an indirect material supplement to the incomes of great nobles and (other) office-holders. When Cecil Roberts succeeded his father as Master of the Warde in 1599, this policy came to an end. This did not make wards any dearer for their purchasers, but it cut down or abolished altogether the profits of the middlemen. Possession of this office was thus less materially attractive. What was worse was that this injured the established interests of powerful politicians, interests they saw as justified. Tenants of the king had criticised the court of Warde since its foundation. At the turn of the seventeenth century, the crown additionally lost the goodwill that had previously been extended to this court by influential circles.

Incomes from 'tenure right' rested formally on the legal fiction of continuing feudal dependence. In this way, it was possible to circumvent Parliament. In the course of time, however (first of all with the struggles over the Statute of Uses under Henry VIII), the semblance of feudal rule was also discontinued in particular decrees. In 1610, for example, James I was perfectly prepared to renounce his rights of ward and purveyance, if – in the projected 'Great Contract' – this was replaced by other regular incomes. Charles I also demanded that everyone with an income of more than £40 who had not on the day of his coronation applied to become a knight, should pay a fine. But he also demanded this fine from two lords who had fulfilled the requirement but had not been knighted by the king.

In the short term, the material basis of the crown was expanded by the expropriation of episcopal property and the dissolution of the monasteries. Most of the properties appropriated in this way by the crown, however, were sold – a large part of the receipts going to finance Henry VIII's wars. After 1549, the crown found itself forced to alienate holdings that came into its possession without feudal obligations. In this way, the greater part of former church properties were removed from the fiscalised feudal power of the

crown. It was families of the gentry, above all, who profited from this trade.<sup>123</sup> A fundamental improvement in the appropriation opportunities of this social group was thus not the result of long-run structural changes, but rather of political decisions, the structural necessity of which can in no way be clearly demonstrated – at any rate not for Henry VIII's military undertakings on the Continent. The result of estate strategies that aimed at limiting the autonomous fiscal power of the crown made it well-nigh impossible to construct an 'apparatus' of royal rule whose members would be materially dependent on the crown. The greater part of government personnel worked for the English kings without being paid by the crown. This was particularly true of the Justices of the Peace and the clergy.

Before the Reformation, the crown made use of senior clerics as ministers and ambassadors; after the Reformation it established 'cost-free' instances of administration in the religious parishes. Along with the conduct of registers of births, marriages and deaths, these were also responsible for the Poor Law.

To anticipate potential misunderstanding, we should stress that under the *ancien régime*, official power in any form was an authority for private appropriation, quite irrespective of whether it was endowed with a greater or lesser remuneration. The exploitation of the authority granted for private enrichment was seen as completely legitimate. In the course of repeated conflicts, however, many practices were in the long run defined as 'excessive'.

Criticism of judicial appropriation in the form of 'maintenance' has already offered an example of such a process of delegitimation. The restriction of unauthorised private appropriation is particularly clearly shown in impeachments of the king's ministers by Parliament. Accusations before Parliament did not generally arise from practices of appropriation, but rather from differences between parties at court. In these proceedings, however – from the trial of De la Pole in 1387 to that of Stafford in 1640 – the charge of unjustified enrichment was always involved.

The limitation of the 'apparatus' financed directly by the crown had far-reaching structural consequences for the development of the *ancien régime* in England. In the following sections, this will be treated in detail, in relation to both the constitution and reproduction of the ruling estates, and the conditions of government practice. The first point to establish here, however, is that

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<sup>123</sup> Cf. Mingay 1978, p. 58.

the demand for paid or at least potentially profitable offices was great. There was no formal limitation – i.e. by virtue of estate – on access to particular offices. But since the bestowing of offices arose from mediation and political influence (patronage), disposal of attractive appointments lay to a large extent in the hands of great nobles. In so far as these offered positions to less elevated lords, they at least drew material profit from their activity as middlemen. The trade in wardships, as depicted above, illustrates this connection.

Offices improved the income of members of the high nobility; they offered the eldest sons of peers access to influential circles of the kingdom, and their younger sons an employment that at least befitted their status. As Aylmer has shown in his detailed study, between 1625 and 1642 about a quarter of all peers (not including baronets, bishops, and those Englishmen who held peerages in Scotland or Ireland) were in the service of the king.<sup>124</sup> Trevor-Roper has pointed out that of the 72 peers newly created by James I, almost all reproduced their status principally by income from offices – rather than their possession of land.<sup>125</sup>

According to Aylmer, no more than 3 to 4 per cent of families belonging to the gentry had offices in their possession, and for the pseudo-gentry – i.e. the social group of pseudo-nobles whose numbers are hard to define at all accurately – this share in his view was no more than 2 per cent.<sup>126</sup> Besides their appropriation by power of office, the possession of those privileges of appropriation that were grouped under the heading of ‘monopolies’ offered a further important form of private use of centralised power. The right to give out monopolies was based on the authority of the crown to regulate production and trade, in so far as this lay outside the power of the lords. Regulative authority of this kind stretched from the award of special privileges to local or foreign merchant associations, via the granting of corporate statutes to societies engaged in foreign trade and colonisation, to regulations on quality and organisation of manufactures. Many such regulations had a legal form, and were then based quite often on initiatives of the lower house, which in turn arose from petitions expressing the demands of special interests (whether individual or local). As Bindoff has shown, this context applies even to the

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<sup>124</sup> Aylmer 1974, p. 324.

<sup>125</sup> Trevor-Roper 1953, pp. 9–11.

<sup>126</sup> Aylmer 1974, p. 324.

far-reaching Statute of Artificers of 1563, which for a long time was hailed as the starting-point of systematic labour legislation by the state.<sup>127</sup>

The importance of prerogative power in regulating the conditions of private appropriation must thus be discussed from two perspectives: in relation to the effectiveness of rather general regulations pertaining to public-order policy, and in relation to the direct improvement of prospects of appropriation by specific individuals.

From the 300 or so legal regulations that were decreed by the Tudor monarchs for manufacture – of which about 250 contained specific penalties for infringement<sup>128</sup> – one might conclude that appropriation in the sixteenth century was structured by power at least in this sphere. This would, however, be mistaken. For the conditions of government practice obstructed the implementation of such arrangements. Available for the enforcement of economic controls and penalties pertaining to these were the constables, as well as the Justices of the Peace at their quarter sessions. Before the Justices could be involved, reports had to be laid before them. (For want of a regular economic police, these were principally the work of more or less professionally operating informants.) The way in which such reports were then dealt with was to a large extent at the discretion of the local Justices. Their actual judicial practice was not only dependent on the particular view they took of their duty, but above all on whether they shared the goals that the crown had striven for in its regulations. It was not uncommon for the economic penalties laid down to be simply not applied; on occasion there were even formal protests by Justices of the Peace against regulations that contradicted manufacturing interests in their district. Considered as a whole, what arose from this in practice was a kind of locally inflected *laissez-faire* policy. However, the authority of the crown to regulate commerce was not challenged as such.

The same applies to the authority of the Justices to fix wages and prices at a local level. In practice, both local and general regulations were usually a question of sanctioning the 'Zeitgeist' – as S.T. Bindoff puts it<sup>129</sup> –, expressed, for example, in notions of the proper length of the working day or periods

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<sup>127</sup> Bindoff 1961, Chapter 3.

<sup>128</sup> Williams 1979, p. 144.

<sup>129</sup> Bindoff 1961, p. 58.

of apprenticeship. More detailed regulations, if they were seen locally to be hindrances, were largely ignored.

In relation to monopolies, such a cavalier attitude towards royal prerogative power was less readily possible. For the possessors of monopolies pressed for their upholding. Monopolies were reciprocal agreements. The crown generally profited both fiscally and politically when it conferred a monopoly. The recipients enjoyed an improvement in their competitive position that was sanctioned by power. (In the case of letters of marque and reprisal, which should generally be classed together with monopolies, what was involved was the material participation of the crown in robberies, and the security of not being condemned to death by hanging for this crime.)

The extent to which monopolies obstructed the appropriation prospects of competitors, or even ruled out competition altogether, cannot be answered in general terms, but only in the individual case. None the less, the violent political conflicts over the practice of conferring monopolies in the late sixteenth and early seventeenth centuries show that their possession was not seen as unimportant. In the present context, these conflicts are relevant above all because they indicate a development from criticism of the *practice* of conferring monopolies to criticism of the *authority* to confer monopolies, in other words a redefinition of the limits of royal prerogative power.

In 1575, Elizabeth awarded a series of monopolies that provoked such violent protest that they were withdrawn the same year. These however were monopolies awarded to particular individuals, such as a dispensation from the ban on usury, from certain restrictions on transport and from excise duties. These monopolies also reserved for particular individuals the profits that could be drawn from laying information before the courts.<sup>130</sup> The attacks against them bore not so much on the content of these monopolies, but rather on the fact that they were conferred on relatively insignificant courtiers and disregarded established patronage interests. It was rare for powerful nobles to seek monopolies for themselves – for the sake of comparatively uncertain gain<sup>131</sup> –, yet they used successful patronage to maintain or extend their political influence. (In the case adduced here, the royal grant of monopolies offered them the prospect of successful activity as middlemen.)

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<sup>130</sup> Beresford 1958, pp. 230–2.

<sup>131</sup> MacCaffrey 1961, p. 120.



In 1601, Elizabeth formally withdrew most of the monopolies that she had conferred. James I initially lacked such reservation. The Parliament of 1604 therefore took it upon itself to inform the (foreign) king very expressly of the political limits of his prerogative. From now on, the crown no longer conferred 'monopolies' but granted 'patents'. Since, however, it did this very widely, in 1624 – after three years of sometimes very violent debate – Parliament set a legal limit to the granting of patents. From now on, patents were to be reserved to inventors, and a time limit set to their validity. The crown formally accepted these stipulations. But because the demand for politically favoured appropriation prospects was not abolished, and their award was an important means for the crown to obtain political goodwill or reward services, the government simply went over to privileging corporations rather than individual persons.

To a large extent, the demand for monopolies came from the circle of (less influential) courtiers. Since the crown had limited possibilities of conferring legal sinecures, paying pensions and distributing presents, courtiers themselves ventured to propose to the crown what it might offer them – at no cost. They found ever new possibilities for 'monopolies', such as exemption from a general ban on export.<sup>132</sup>

Viewed as a whole, the practice of granting monopolies provoked more of a conflict between 'haves' and 'have nots'. At most, these conflicts within the ruling estate were kindled by disregard for the established patronage model.<sup>133</sup> On occasion, however, a broader public was drawn into the conflicts over monopolies.

The protest aroused by the patent conferred by Charles I on the 'soap makers of Westminster' is especially instructive in this respect. I take the depiction of this conflict over this monopoly from Charles Carlton's biography of Charles I:<sup>134</sup>

The government appeared just as ridiculous when it used the Royal Navy to stop smugglers avoiding the monopoly the King granted the Company of Soapmakers of Westminster. They were a front for a group of the Queen's Catholic friends, authorised in 1631 to use domestic raw materials such as

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<sup>132</sup> MacCaffrey 1961, p. 105.

<sup>133</sup> Aylmer 1974, pp. 233 ff.

<sup>134</sup> Carlton 1983, p. 193.

lard, rather than imported fish or whale oil to make soap, which they would sell at 3d a pound, paying the crown a royalty of £4 per ton. The monopoly upset many people: the old makers...housewives...and many Protestants. So the government put on a public display at the Guildhall, wherein two washer women, watched by the Lord Mayor of London, the aldermen, the Lord Lieutenant of the Tower, and their ladies, scrubbed and rubbed in two tubs to convince the public that the new (and improved) papist soap washed as well, and lathered better, than the Protestant brand.... However, the public remained sceptical...[and] in 1637 – too late to prevent civil war – the washerwomen of England were allowed to return to the foam of their fathers when the Archbishop of Canterbury persuaded the King to take the monopoly away from the Queen's Catholic friends, and return to the old Protestant company, albeit at double the royalty of £8 per ton.

As Robert Ashton has shown, the privileging of corporations, especially in London, led to conflicts with merchants who had access to monopolies, licenses or tax-farming.<sup>135</sup> It was not simply that the possessors of privileges exploited these to the detriment of their competitors, they very often also monopolised the connection with the crown, and only facilitated the purchase of new patents on condition of their own economic participation in these.

In so far as monopolies meant an effective intervention in markets, relations of economic competition took the form of *political* factions.<sup>136</sup> This situation came to a head when – after a temporary retreat by Charles I's government – patents were again conferred (on groups) in the 1630s, since in this way the crown could spare the costs of presents to courtiers, and hoped to derive revenue for itself. By its favouritism and disregard of existing monopolies, however, the king's government managed to alienate its concessionaires politically. Whereas there had been, since the reign of Elizabeth, certain groups of large merchants and manufacturers in the towns, especially London, who by supplying the court, and especially by monopolies and charters conferred by the crown, stood in a tactical economic alliance with the royal overlord – and thus for example even supported the fiscal policy of 1628–9<sup>137</sup> – the privileging policy of Charles I unsettled this milieu. The result of this policy was that in

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<sup>135</sup> Ashton 1979.

<sup>136</sup> Ashton 1979, pp. 30 ff.

<sup>137</sup> Ashton 1979, p. 129.

1640 the king could not find new creditors, and London was won to the side of Parliament for the first time since this political conflict began.

But the 'monopolies' provoked opposition beyond those who had previously been favoured by the crown. For the economic preconditions for a wide-ranging criticism of economic regulations tailored to particular individuals had by this time arisen.<sup>138</sup> David Harris Sacks showed in a remarkable essay<sup>139</sup> how demands that the merchants of Bristol had made to the crown aimed at a general regulation. *Private rights* for all economic citizens should replace market privileges to particular corporations or possessors of patents that were granted by political power. For the Bristol merchants, and for those corporations in London and other towns that did not enjoy royal favour, demands of this kind arose not only from their disadvantage in such access, but *also* from the fact that they (rightly or wrongly) believed they could compete successfully with the formerly leading corporations, if these lost the political support for their market position that they currently enjoyed. In the situation of a potential expansion of competition – in the 1620s, such an expansion had temporarily been permitted by the crown in both cloth production and certain sectors of overseas trade – Charles I's practice of granting monopolies was bound to be especially provocative. It is not insignificant that, in certain legal cases, a fundamental criticism of the crown's authority to favour corporations was developed already from the end of the sixteenth century (especially by Judge Edward Cook).

### *Reproduction of the ruling estates*

In societies of the *ancien-régime* type, social positions were constituted by power to a more or less high degree. This was true from the first estate, to which in England only the king – or in case of female succession, the queen – belonged, right down to the poorest inhabitants of a local community. Their place in the world, too, was determined not simply by poverty, but additionally by the fact that authorities determined the difference between their position and the criminal way of life known as vagabondage. Politically sanctioned privileges and their incumbent duties were also bound up with social position

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<sup>138</sup> Cf. Little 1970, pp. 30–1.

<sup>139</sup> Sacks 1986.

– again to a very different degree. These, too, stretched from the privileging of local beggars as against foreign ones, up to the privilege of the lords who were invited to Parliament. Between these extremes lay, for example, the privilege of members of particular corporations to take precedence in the processions that were a feature of urban feast days. In the rules of precedence, i.e. the right to precede, the forms of social intercourse among nobles were increasingly given practical normative expression in the course of time. *Precedence*, in whatever form it might be expressed, was a display of social position. (Others for example were the dress appropriate for each particular estate, or – almost more important – their place in church.) Social position was a property of persons. By virtue of the political sanctioning of the social hierarchy, which existed in principle even if it was not always applied in each individual case, anyone could demand respect on the basis of their status, and indeed irrespective of whether they enjoyed personal esteem or were less rich than many members of a lower estate. These brief indications already suffice to show that there was no fundamental distinction between the politically regulated social hierarchy of ranks of nobility and the social hierarchy of non-nobles, in so far as the latter was also not determined simply from a material standpoint. The final historical dissolution of the structural significance of ranks of nobility for social status, therefore, did not result from the prevalence of status criteria that had been developed by members of the Third Estate under the *ancien régime*. The abolition of noble privileges rather meant the total abolition of the political sanctioning of social positions. It is only since this time that ‘social hierarchies’ correspond to the notion of them developed by social theorists of later historical eras: they are (almost) exclusively the result of processes of *social* selection.

These general considerations apply equally to the English *ancien régime*. In England, however, the social hierarchy was also in its upper ranks a hierarchy of possession. (Exceptions from this characteristic structure will be explained below.) This far-reaching coincidence between politically sanctioned social hierarchy and hierarchy of possession had three particular causes: the first was primogeniture, by which the transmission of (hereditary) noble titles and wealth was confined to the oldest surviving son. (The remaining children of a high noble thus sank into the gentry, if they did not manage an individual ascent into the high nobility.) This not only kept the families of the high nobility small in number, but above all it maintained the great wealth of these

families. In the course of time, the notion that the present bearers of such titles, whilst they could certainly enjoy their possession themselves, could not dispose of it freely, became an element (in part also laid down by law) of the socialisation strategies of this social estate. The second cause of the coincidence of status and possession hierarchies followed from the conviction of the English monarchs that great wealth justified the hope for ennoblement. If they conferred titles of nobility on individuals whose wealth did not correspond to their future rank, they then generally combined such a title with the grant of a landed property. The third and final reason resulted from the circumstance that after the constitution of the lower nobility into an estate and its appropriation of local ruling power, the boundary between noble and non-noble in England continued to be determined largely without the direct intervention of the crown (on heraldry, see below). This did not mean, as might be supposed from the qualification of £40 annual income for public office, that the lower limit of the English gentry simply coincided with a certain amount of property (and the income resulting from this). For in a kingdom where the triumphal march of the hierarchy of possession had already begun in the age of feudalism, *source* of wealth remained decisive for social position under the *ancien régime*. But, among those whose wealth was derived from agricultural appropriation (or possession of office), the *amount* of wealth counted for much in England. This applied in a double respect: wealth meant candidacy for membership of the gentry; conversely, loss of wealth involved a more or less rapid social decline, right down to the loss of membership of the nobility altogether.

In the course of the sixteenth and seventeenth centuries, three important structural changes took place in the social forms of the constitution and reproduction of the ruling estates of England. These amounted to the dissolution of the notion of *gentility*, a concept which had expressed the unity of the nobility, and a redefinition of the boundary between lower nobles and non-nobles together with the formation of the 'squirearchy' (see the Bibliography for this concept). All these changes were a matter of developments effected by strategies of social advance or by modes of behaviour designed to obstruct the encroachment of social climbers into the privileged estates: social processes, therefore, that modified a social hierarchy structured by possession of privileges, and still sanctioned moreover by power. In outward appearance, however, the very highest ranks of the social hierarchy would seem to have been

scarcely affected by this process. For, in the period of the *ancien régime* under discussion here, these continued to be shaped to a very far-reaching degree by the direct practice of royal power. (As we shall show, the political room for exercise of this prerogative power was restricted in the later phases of the *ancien régime*.)

It was not only deserving officials, but also courtiers able to gain the monarch's favour in other ways, who were rewarded with titles and estates up to the Revolution, and again under the Restoration of the Stuart monarchy. For the conferring of ranks of nobility (along with their material support) was as much one of the prerogatives of the crown as was the right to raise someone to the knightly estate. (In time of war, the latter was also devolved to the crown's commanders in the field.) For the peerage (i.e. the high nobility of England), as well as the baronetcy (introduced in 1611) and the orders of knighthood, the English crown distributed noble ranks and along with these social positions. If Henry VIII or Edward VI granted new titles as a means to win political support, or if the early Stuarts resorted to a regular sale of noble titles out of fiscal considerations, this had just as direct effects on the structure of the nobility as did the inflation of the orders of knighthood that was started by Elizabeth's commanders – above all Essex – and continued on a large scale by the early Stuarts.

The crown decided on new accessions to the high nobility; it secured the continuance of an old name by reconferring a title on relatives of a family that had disappeared, and secured the survival of others by the abolition of 'attainder' (condemnation in trial for treason). Strategies of the nobility had an effect on the maintenance of wealth. But since even a high noble rank gave no protection against the many dangers with which life was beset, the political strategies of queens and kings, just like those of noble families, were upset time and again by the failure of biological reproduction.<sup>140</sup>

Up till the Reformation, a far-reaching coincidence of noble rank and possession marked both the high nobility and the lords spiritual. After the Reformation, whilst the archbishops and bishops kept their seats in the House of Lords, only a few princes of the church were still in a position to conduct a household appropriate to their rank. But since under the English *ancien régime* great wealth and a corresponding mode of life had become benchmarks of

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<sup>140</sup> Cf. Stone and Fawtier Stone 1984, p. 86.

high noble rank, the *relative* impoverishment of the religious lords brought with it a blow to their social position. This development was not reversed by the considerable influence that particular bishops obtained in the early Stuart period. The result was that it became easier at this time for sons of the lower gentry, or even sons of peasants, to rise up in the church hierarchy. This in turn reinforced the devaluation of the social position of lords of the church that was already under way. There thus arose a difference between noble rank and social position that is otherwise rather untypical for English conditions.

Direct sanctioning of social hierarchy by power in England remained confined to the higher nobility. The crown could certainly influence ascent within an estate by its practice of patronage, but the structurally decisive factor was the socially selective practice of members of the privileged estates.

Especially significant here is the effectiveness of such practice on the de facto perpetuation of an incompatibility between commerce and membership of the nobility. As distinct from other societies of the *ancien régime*, this incompatibility was not fixed in England by laws of derogation (i.e. regulations that threatened the loss of noble status if they were breached). Social discrimination, however, was all the more effective according to M.L. Bush.<sup>141</sup> This lasted right down to the nineteenth century, whereas in France foreign trade was already exempted from the derogation regulations in the seventeenth century. Stone and Fawtier Stone have shown that a view long prevailing among historians, to the effect that the involvement of a large number of younger sons in commercial enterprises led to a close tie between nobility and commerce, was certainly not true for the higher nobility.<sup>142</sup>

As far as the lower nobility or gentry were concerned, they too managed to exclude even overseas traders for several centuries. This practice led to a second departure of social hierarchy from hierarchy of possession, though one that was completely different from the case of the lords spiritual. The exclusion of rich merchants in overseas trade from candidacy to nobility corresponded to the socially dominant criteria of social position. In other words, their wealth gave many families of the mercantile bourgeoisie a material position comparable with families of the upper gentry or even baronets, but the source of their wealth, according to the prevailing criteria of selection prac-

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<sup>141</sup> Bush 1984, p. 9.

<sup>142</sup> Stone and Fawtier Stone 1984, pp. 233, 237.

tice, ascribed them precisely the status they already had, that of non-nobles. Conversely, most members of the rich mercantile bourgeoisie in England did not attempt modes of behaviour that would have made them candidates for integration into the aristocracy (see below). In so far as they did purchase landed properties (generally in close proximity to London), they did not thereby give up their connection to the world of trade, but 'derogated' from modes of behaviour that would have been appropriate to a landed noble.

In the course of the sixteenth and seventeenth centuries, the crown sought to extend its authority over conferring social rank to the lower gentry. Whilst it did not claim to determine membership of the gentry as such, it did do so for rise into the so-called 'armigerous gentry'. By raising a man to the rank of knight, the crown already conferred formal confirmation of advance within his estate. In 1484 an office of heraldry was established, for the purpose of expanding this authority. Heralds were to control the justification to bear a family coat of arms. (This had traditionally served as the hallmark of someone's 'own weapons' – and thus to signal that armed men belonged to a particular lord.) From the mid-sixteenth century at the latest, visitations of the heralds to the provinces are documented.<sup>143</sup> But the heralds only intervened against the most flagrant abuse. They allowed a 'noble lifestyle' to serve as justification to bear a coat of arms, without seeking to define this more precisely. In its administrative practice, the College of Heralds did not develop as an instance of administering the royal prerogative, but simply as a kind of public office in matters of nobility: decisions of the heralds were not proclaimed 'in the name of the king (or queen)', but simply with respect to the power of office granted to the heralds.<sup>144</sup>

The development of the College of Heralds shows that the crown could no longer do more than formally confirm the results of a selection practice within the estate. For the long duration of the *ancien régime*, the English nobility retained the power of defining the preconditions for access to the nobility, and for ascent within the gentry. The most important expression of this power was the development of a notion of *social qualification* for particular public offices: the minimum precondition was an adequate income from landed property. Income from office was also acceptable. (There were regional variations in

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<sup>143</sup> James 1978, p. 23.

<sup>144</sup> Ibid.



relation to the level of income seen as necessary, and therefore in relation to the estate assignment of certain groups of proprietors.) The property qualification had to be supplemented, however, by the social integration of a family into the society of landed nobility. Only if the stratum of nobility that a family sought to join accepted and returned invitations, and did not seek to prevent marriage between its own sons and daughters and those of the new family, could this see itself as belonging. What decisively confirmed membership was the head of the family being proposed by the heads of other noble families for an office befitting his new status. As against the situation in France, it cannot therefore be said in England that attainment of a particular office automatically conferred noble rank, since in England certain offices were only attainable if the social position corresponding to them had already been acquired. It was long taken for granted by scholars that the absence of formalised estate barriers to even the highest offices made access to these easier, and thus ascent into the nobility and within this estate. More detailed empirical studies, however, have shown how the opposite was the case.<sup>145</sup>

To this extent, however, ascent into the lower nobility was comparatively less problematic than the phase of 'nobility in waiting' which in eighteenth-century France had to last at least four generations, in the view of the older noble families, though in certain circumstances it could be accomplished in a single generation. In England, once a family was accepted by the local gentry, they belonged to it right away.

The sixteenth and seventeenth centuries saw a considerable *numerical expansion of the gentry*. This happened by a dual process: an increase in successful individual ascent, and the collective appropriation of certain privileges by the highest status group of the non-nobility that had previously been reserved to the nobility.

The crown contributed to the success of individual strategies of ascent, not least by the sale of the church lands that it had expropriated in the wake of the Reformation. Many a yeoman (on this concept, see the Bibliography) was now able to build a house whose size and fittings proclaimed his hope to be counted among the gentry, and many lawyers and officials from the towns acquired along with a landed property the opportunity to present themselves as equals to the families of the landed nobility. Since the second half of the six-

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<sup>145</sup> Cf. Stone and Fawtier Stone 1984, *passim*; Bush 1984, p. 8 & *passim*.

teenth century, there was, besides this individual ascent along the traditional path, also a kind of collective appropriation of the status symbols of the nobility by non-nobles, i.e. by families that to a large extent retained their former style of life and did not seek acceptance by the society of landed nobles. They thus to a certain extent entered into the privileged sphere of the nobility, but without accepting its criteria of definition. This aspect is somewhat concealed in the notion of 'pseudo-gentry' commonly used among historians, since this suggests that a more or less well-constituted group of gentry was expanded by that of 'pseudo-gentry'. But though it does indeed seem that any urban bourgeois, once he was addressed by his fellow bourgeois as 'gentleman', experienced this as confirmation of his own advance into (almost) the world of the nobles, the justification for this pride must be somewhat reduced from a later perspective. For the influx of lawyers and scholars, brewery owners, bankers and eventually even merchants into the world of gentlemen, meant from a structural point of view that the former *dividing line between noble and non-noble* was weakened, rather than simply signalling the advance of individual non-nobles.

The increase in the number of gentlemen – an inflationary one to many eyes – provoked defensive reactions from this estate, who feared it would lead to a kind of *restructuring of the strata of nobility*. Up to now, the dividing line between noble and non-noble ran along the lower boundary of 'mere gentlemen'. This boundary – though never formally determined – appeared sufficiently decisive in that, until the early seventeenth century, 'gentility' had signified an understanding of the unity of the nobility. From rich princes down to simple landed gentry, members of the nobility were comprehensively described as 'gentlemen' according to Harrison.<sup>146</sup> But when everyone who could possibly claim it appropriated the nobilising tag of 'esquire', and the abolition of clothing regulations at the start of the seventeenth century made their efforts to describe themselves as 'gentlemen' quite legal (not to mention the opportunities that this offered their ladies), members of the higher ranks of nobility challenged the unity of all gentlemen. By word and deed they widened the social distance between themselves and plain gentlemen that had already been present to a degree. In this way, they left the former lower gentry somewhat in the lurch, and threw them together with the new

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<sup>146</sup> Harrison 1577; cf. Furnivall (ed.) 1965, Volume 2, p. 106.

plain gentlemen into the same social pot – by their language and social practice. These defence strategies were reinforced by the development of models of behaviour that marked out a new dividing line. This ran – in simple terms – between ‘parish’ and ‘county’. The reference to administrative units is not accidental. For nothing was altered by the possibility of advance within the estate as a social qualification for particular offices. ‘County’ meant a family whose male members would be considered for offices at the county level, which was the case when their social contacts with families already accepted as qualified were firmly established. The increase in numbers of plain gentlemen led to the development of strategies designed to make advance beyond a certain level within the estate that much harder. A brewer might well call himself ‘esquire’ and even buy a landed property, but access to county families would still be barred to him. In principle, the higher ranks of gentry still remained open. In practice, however, only those families of the lower gentry could profit from this possibility who had steadily improved their social position over several generations.

Social ascent was *prepared* by the acquisition of wealth: through marriage above all, though also – if more slowly – by the systematic exploitation of all opportunities for appropriation linked to the possession of land. A request for integration into the circle of county gentry was *proclaimed* by the construction or purchase of a landed property and the development of a generous and hospitable lifestyle.<sup>147</sup> The ascent was *sanctioned* by the award of office at the county level, and finally – depending on the practice of the monarch of the day, and on access to influential courtiers – in the short or long run by conferment of knighthood or a hereditary title.

Besides this slow ascent of local gentry families from parish to county, there was also a move sideways into the county gentry. This was open to all holders of offices under the crown. Occupation of these was indeed generally reserved for those who were already regarded as belonging to established families at the county level, yet under the Tudors for example, powerful new dynasties of great nobles were created from families who did not already belong to the higher gentry or the lower ranks of the peerage.

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<sup>147</sup> Cf. here Stone and Fawtier Stone 1984, pp. 185, 189 & *passim*.

By this widening of the social distance between themselves and the plain gentlemen (those of the towns in particular), the 'armigerous gentry' drew closer in a certain respect to the higher nobility. In the course of the phase of the *ancien régime* under consideration here, in fact, the higher-status groups (ranks) of the gentry, together with the peerage, came to form a far-reaching common self-conception and corresponding forms of behaviour. This habitus of the aristocracy attained a cultural dominance in England and Great Britain, outlasting all political and social changes of the second half of the nineteenth century almost unscathed. It is still effective today.

The possibility of developing a habitus that embraced the higher gentry and the peerage arose from three structural preconditions, the first of which was the far-reaching coincidence of the hierarchies of possession and status (including hierarchy in the ranks of nobility).

Whereas, in seventeenth-century France, families of the *noblesse de robe* could be much richer than families from the old *noblesse d'épée*, yet remain far below them in rank, in England great wealth – from a socially acceptable source – played a considerable role in determining candidacy for rise through knighthood, via the title of baronet, and on to eventual elevation to the peerage.

Hereditary titles could, of course, only be conferred by the crown, but since the exclusion practices of families in the higher status positions of the gentry (those in line for the peerage) were not sanctioned politically, conflicts over the extent and form of centralised power scarcely touched the reproduction of the ruling estate. This meant, however, that advance into the squirearchy remained open in principle to every landed gentleman in so far as he 'and his house' met the requirements of wealth and habitus laid down for the higher and highest nobility.

A further precondition for the cultural and social melting together of the higher gentry and peerage lay in the conditions for the political power of the lords. In England, too, political struggles took the form of court intrigues. Lasting political influence, however, already presupposed anchorage in one or more counties (for more on this point see below). Neither their practice of rule nor their mode of life made the English peers into court nobles in the literal sense that had characterised the existence of the higher nobility in France since the reign of Louis XIV.

The formation of a habitus including the squirearchy finally presupposed the already described disappearance of the difference between the appropriation practices of the higher nobility and the gentry. Since appropriation by armed force had lost significance even for the higher nobility, the differences of interest between peerage and higher gentry shrank accordingly. The development of a common ideal of nobility that this made possible led to the cultural transformation of the notion of *honour*.<sup>148</sup>

The higher social value of an officer's commission in the Guards regiments as against other ways of earning money open to the younger sons of the nobility, just like the social obligation to duel in the case of an injury to one's honour, involved a notion of honour oriented to the conception of the knight as individual warrior. But, whereas the traditional notion of honour made the individual knight the decisive instance, and even founded a right of resistance to the king, the transformed notion of honour of the English nobility was oriented far more towards service to the crown.

This adaptation of the notion of honour to the changed conditions of material and social reproduction of the nobility also facilitated the cultural reprocessing of the Reformation by the nobility. If the moralisation of possession of rule was initially promoted by members of the gentry, this notion was now integrated into the common ideal of nobility. Also connected to this is the dissolution of those requirements that were made of a noble household in the age of feudalism and the early phase of the *ancien régime* by the ideal of 'hospitality'.

The notion of 'household' had signified above all an obligation towards vassals and later towards retainers under private contract, but 'hospitality', which became the norm for the nobility particularly in the late sixteenth and early seventeenth century,<sup>149</sup> was extended to anyone, and especially the poor of the community. This kind of hospitality was also decisive for publication of the claim to count as a county gentleman. For, in the sixteenth and even seventeenth century, hospitality offered one of the most important ways of acquiring a social reputation. Among Puritan families in the higher nobility, this was also an integral component of a seriously Christian practice of life.<sup>150</sup>

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<sup>148</sup> James 1978.

<sup>149</sup> Heal 1984, p. 68.

<sup>150</sup> Cliffe 1984, Chapter 4.

This behavioural ideal became possible not least through the way that appropriation was now organised. Since families of the ruling estates often leased their land to large farmers, it was the latter who confronted the peasants as direct representatives of the system of exploitation, whilst the owners could be seen as generous, especially if, on occasion, they prevented the expulsion of small peasants who had fallen behind with their payments. That it was often useful for them to be viewed in this way can be ascribed, on the one hand, to the fact that the development of paternalist practices of rule was necessary in view of the lack of a developed local police power; at the same time, however, this code of behaviour, advertised and in part actually realised, must be taken seriously as a collective definition of the estate's self-conception. To this extent, hospitality also served to demonstrate membership of the effective lords of the land. If the purchase of a new landed property did not lead to the practice of hospitality, this to a certain extent signalled a renunciation of integration into the local ruling circles. (That there were purchases of this kind – for example as a home for retirement or simply relaxation, is shown by L. Stone and J. Fawtier Stone.<sup>151</sup>)

A certain *education* for members of the ruling estates also developed along with the *habitus* characteristic of hospitality. Many eldest sons in the sixteenth and seventeenth centuries attended university for a time, or one of the Inns of Court. A basic education was even customary for daughters. Younger sons often received an education that would give them access to an office or a legal practice.

*Habitus*, i.e. particular perspectives and models of behaviour that were culturally defined quite precisely, became the most important criterion for access to high position in the noble hierarchy, at least after the size of property. With the exception of the eldest sons of peers, there was no politically sanctioned guarantee that members of the aristocracy would retain their social position. On the contrary, the younger sons of nobles invariably tended to sink below the status of their fathers. Only some success in the process of social selection (favoured of course by origin) could help them to a social position that matched that of their eldest brother. Strategic opportunities for daughters were restricted to the choice of marriage candidates.

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<sup>151</sup> Stone and Fawtier Stone 1984, pp. 164–5.

Although the importance of wealth and habitus was at least as great in the reproduction of the English nobility as that of inherited privilege directly tied to the person, it is analytically advisable to consider the entire English nobility as a single estate. It is true that apart from the family heads and eldest sons of the peerage (a total that rarely reached more than a hundred), the English nobles *individually* possessed little privilege over and above their appropriation power as landlords – and in estate terms this was gradually neutralised. *Collectively*, however, they held considerable parts of the generalised power in their possession.

The estate character of office power at the *parish* level, for its part, became more restricted in so far as practices of exclusion were increasingly directed against the entire poor and no longer against well-to-do peasants and large farmers. (A development that intensified from the second half of the seventeenth century, if with certain regional differences.) In place of exclusive estate participation in the local practice of generalised power, there emerged at the parish level rather a structure of participation governed by property and class interests. At the county level, however, the estate criteria of selection continued undiminished. In this way, members of the squirearchy secured favourable conditions for their practices of appropriation and their power to define the structures of good order.

### *'Good order'*

Only when changes in the world destroyed those notions of order in which a renovator was condemned as a heretic, a man in rebellion against the will of God, did change in the content of good order come irrevocably into debate. Of the contemporary conceptions of God and the world, a good life and 'good rule', the only aspect that is relevant here is that bearing on conflicts over the maintenance of old notions of order and the introduction of new ones. In this connection – as always in times of far-reaching change – the groups upholding competing notions of order were not identical with the 'authorities' on the one hand and the governed (or lower orders) on the other. Even among those who actually or potentially participated in the practice of rule, there were diverging conceptions of what made for good order and with what methods this could best be maintained or established.

Before we turn to these differences, the first thing to note is that there were some definitions of good order that very many men and women accepted as

unchallengeable in the sixteenth and early seventeenth centuries. We can conclude from traditional models of behaviour and formulations in the context of protests, that this prevailing opinion was often shared even by those who according to Thomas Smith were 'only embraced in the common wealth in so far as they are to be ruled'<sup>152</sup> – in other words, day-labourers, poor peasants, small traders, artisans, women and children. We have good reason to suppose that the great majority of these shared the view that everyone should honour God and be subject to the king or queen, likewise servants and apprentices to their masters, children to their parents and women to their menfolk. In the event of a woman inheriting the kingdom, a duchy or earldom, the prevailing opinion made exceptions, because in this case the decisive thing was not age or sex, but the 'blood' that had brought them into the world.<sup>153</sup>

Good order was conceived as a hierarchy, and its maintenance was seen as possible only if every person had a master. To describe someone as 'masterless' under the *ancien régime* was to ascribe to them every kind of ill-discipline. This commandment of subjection to a master embraced everyone, even the most powerful nobles.

With the growth in population and the changed economic and social forms of profitable exploitation of landed property (not universal, but decisive in many regions), 'masterlessness' became a constant problem for those authorities who had the task of establishing order and the means to achieve it. Views differed as to the methods that were required for this. And here we are already in the midst of the differing conceptions of the content and strategy of 'good order'.

David Underdown has summed up the main tendencies of public-order policy in the following way: on the one hand, an orientation to tradition and custom, to forms of collaboration and the notion of a 'harmonic' vertical society, and on the other hand, the attempt to achieve a moral reform(ation), to promote individualism and personal responsibility.<sup>154</sup> As far as public-order strategies are concerned, the former tendency was directed towards achieving social stability by maintaining a quite definite structure anchored in custom. Public-order policy should therefore be directed to *preventing* change as far as

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<sup>152</sup> Smith 1970, p. 33.

<sup>153</sup> Smith 1970, p. 19.

<sup>154</sup> Underdown 1985, p. 72.



possible. The other strategic position was oriented to dealing with the social consequences of change. Stability was understood here in a more 'formal' sense, i.e. as securing rule, but not particular cultural and social forms.

Simple schemata that ascribe different conceptions of order to representative social groups or institutions of rule are unsuccessful. For there were cultural conflicts in which estate differences and class antagonisms found expression, as well as conflicts between the more Puritan and more traditionally oriented members of the ruling estates. These did indeed partly coincide with the conflict (to be explained below) between 'court' and 'country', but they were also overlaid by struggles over the actual extent of centralised authority. Finally, there were also significant regional differences. For depending on the form of production and settlement, the lower orders held more or less persistently to old conceptions of order, while their structures of communication gave them greater or lesser ability to defend these.<sup>155</sup>

To speak of differences between conceptions and strategies of public-order policy only makes analytical sense if the generalisation of rule has reached a certain point, so that generalised rule is no longer confined to fiscal appropriation and the prevention of internal war. This was the case in England at least from the second half of the sixteenth century.

In connection with the strategies for politically implementing the Reformation and improving the organisation of armed force, monarchical rule became both more extensive and more intensive. It was not that the territorial lords of the time were dispossessed (the abolition of the previously autonomous administration in the episcopal seats of Ely, Durham and Hexham in 1536 is rather untypical of the general developmental trend), but some 'gaps' in the former practice of rule were filled in.

One of these gaps was spatial. For up to the Reformation, the validity of secular law stopped at religious 'sanctuaries'. Any man or woman of whatever station could escape pursuit by the authorities by flight to a sanctuary. The abolition of sanctuary meant the political sanctioning of practices that would previously have been seen as a monstrous sin. (As in many cases, it is necessary with the abolition of sanctuary to distinguish between the revolutionising of the legal situation and the persistence of modes of behaviour, which to some extent remain down to the present day).

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<sup>155</sup> Underdown 1985, *passim*.

A further 'gap' in generalised rule, and a far more significant one, was increasingly abolished in the course of the sixteenth century and the first decades of the seventeenth. In so far as the retinues of nobles grew rarer and smaller, there gradually ended the private organisation of armed force and, in this connection, also the practice of nobles to put pressure on courts by a show of force (on both of these, see above).

The constriction of the legal and practical room for manoeuvre of noble rule also had visible consequences. In the south of England at least, the lords increasingly abandoned the fortification of their dwellings.<sup>156</sup>

Following the far-reaching integration of the rule of the high nobility into the practice of generalised monarchical rule, two particular 'gaps' in this still remained. Manorial courts endured as an institution for the enforcement of private authority. Even if this rule was restricted by law, and – what was more important – by the resistance of the tenants, it still remained outside of the generalised rule. A further gap in generalised power was the so-called 'benefit of clergy'.

This privilege had been introduced in the twelfth century. It guaranteed that the majority of offences committed by clerics – exceptions were laid down – would be tried by church courts. Over the centuries, this clerical privilege was gradually extended to the better-off laity. Because literacy had at one time been largely confined to members of religious orders, a legal construction developed by which proof of literacy was equated with membership of a religious order. This clerical privilege was not open to appeal. In the sixteenth century, however, it was granted to many first offenders, who in practice were as good as acquitted. No one could plead benefit of clergy a second time. Courts operated with the legal fiction that a first condemnation brought with it exclusion from the religious order, so that the person concerned no longer belonged to an order if they appeared before the court again. In the seventeenth century, the list of those offences for which clerical privilege could not be adduced in any case was widened. Benefit of clergy was finally abolished – and thus an estate-type gap in generalised royal judicial power filled – in 1827.<sup>157</sup>

A particular structural feature of the *ancien régime* in England was that the institution that developed into the most important instrument of monarchical

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<sup>156</sup> MacFarlane 1982, p. 2.

<sup>157</sup> Milsom 1981, p. 420.

power in the course of the sixteenth century represented at the same time a *potential* gap in this power. It was certainly a prerogative of the crown to appoint peace commissioners, remove Justices of the Peace and control the practice of these in office. Politically, however, the possibilities of exercising these powers were very limited, if a proposed or a sitting Justice was supported by locally influential families.

We shall discuss later on the regularisation of the practice of appointing 'keepers of the peace' and later Justices of the Peace. What had originally been established as local instances of public order with limited tasks, developed under the Tudors into an institution that was to form the centre of local administrative and judicial power for a full three hundred years. Thomas Garden Barnes is of the view that this expansion of tasks and authority was so decisive that it can even be said that Justices of the Peace as well as lords lieutenant were an invention of the Tudor era.<sup>158</sup>

The crown's intention was to make the Justices of the Peace an executive organ of royal policy. The king's advisers, assembled regularly in Council, took care that legal provisions regarding the regulation of labour conditions, the disciplining of and aid to the poor and the punishment of vagabonds, were all made generally known. Increasing attention was paid to the instruction of travelling judicial commissions, with frequent instructions to the Justices of the Peace in the counties to check up on the local constables. Repeatedly from 1576, in the 'books of orders', and especially in 1630–1, administrative instructions were given for dealing with inflation and plague. Since the crown needed to win support in the counties from men who had independent influence there, the implementation of its policy remained dependent on the king's aims being shared by locally dominant families. If this was not the case, then 'negligence' arose, if not a regular opposing policy or in the worst case – as in the years after 1634 – refusal to serve as Justice of the Peace. On the whole, the effectiveness of local government practice improved the possibilities of implementing estate interests. If these coincided with the intentions of the crown, then Justices of the Peace were instruments of royal policy. If they ran against the goals of royal policy, then the power of the Justices of the Peace became an obstacle to the king's government.

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<sup>158</sup> Barnes 1961, p. 40.

The effective execution of generalised monarchical power in the counties required that 'good order' be established by the application of laws and royal decrees. Yet obedience to the law, as many contemporaries affirmed, was not one of the outstanding qualities of the English population. Strategies aiming to enforce such obedience were seen by the groups involved, as they later were by historians, as an indispensable precondition for the establishment of orderly conditions. Only quite recently have scholars pointed out that, under the *ancien régime* too, there were procedures of maintaining orderly conditions that stood outside and in partial contradiction to the letter of the law, but served their purpose none the less. Strategies that aimed to make these procedures impossible, and instead tied the notion of public order precisely to royal law, amounted to a fundamental *cultural transformation* – in the truest sense of the term. This was the result of prolonged struggles, in the course of which one side had the advantage that it possessed the means of generalised power.

The public-order practice that was eventually established was directed either to maintaining peaceful coexistence in the context of the locally established forms of rule of the time, or to re-impose such peace if it had been disturbed. In this perspective, the strict execution of a legal provision (especially if this ran against long-practised modes of behaviour) could be seen precisely as a reason for discontent, as could the intervention of judicial process in a matter that could well have been dealt with outside the courts. It could sometimes promote coexistence in a community much more effectively if a victim of theft was satisfied with the return of the item stolen, than if he took his neighbour to court and brought misfortune to a whole family. (The notion of 'neighbour' under the *ancien régime* embraced the entire immediate social milieu, rather than the stricter geographical meaning it has today.)

Even local constables often had recourse to traditional measures, whether because they shared the views of their neighbours or simply because they wanted to be tolerated by them. This meant that they too did not judge all thefts alike, but might react either with a warning or with an attempt to reach an appropriate settlement outside of court.<sup>159</sup> And whereas brewing ale for the purpose of drinking bouts was certainly treated as an offence, they could

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<sup>159</sup> Wrightson 1984, p. 157; Sharpe 1977, p. 128.

only very reluctantly be led to report a villager who occasionally brewed his own liquor.<sup>160</sup>

If, however, things did come to a regular court case – often on the basis of private informants<sup>161</sup> –, jurors were supposed to ‘present’ the case to the Justices whenever life or limb was at stake. Since such ‘presentment juries’ were responsibly for establishing the *facts of the case*, they had a decisive influence on the verdict. If the accused was a local person, then – in a formulation of J.H. Baker – his neighbours in their capacity as jurors formed a shield between him and the law.<sup>162</sup> The criteria employed by these ‘neighbours’ were not necessarily more tolerant or just, but they were often different from those that the crown demanded.<sup>163</sup>

By strategies of both the crown and the Justices, the application of traditional practices of public order was pressed back in the course of the sixteenth century: the authority of Justices in summary proceedings was expanded, so that formal court processes became more rare. This reduced the influence of jurors on judicial practice. When the collaboration of ‘presentment juries’ was prescribed, the exercise of traditional conceptions of public order could also be limited by judicial commissions demanding ‘presentments’ that were drafted with respect to legal provisions.<sup>164</sup> Besides, until 1670, penalties could also be imposed on jurors who did not deliver their verdict according to the letter of the law.<sup>165</sup> Justices of the Peace now took increasing care that local constables also acquired a certain knowledge of the law, even if they could not actually read. If they neglected this duty, they could count on being punished.

Whilst the expansion of the authority of Justices of the Peace affected the entire kingdom, there were wide regional, local and even individual differences in the degree to which their practice ran counter to traditional public-order practices or the neglect of these. There were more than a few magistrates, moreover, who stuck to a more traditional notion of order. In this case, the exclusion of ‘presentment juries’ from the majority of cases, though it ruled

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<sup>160</sup> Wrightson 1980, p. 32.

<sup>161</sup> Clay 1984, volume 2, p. 236.

<sup>162</sup> Baker 1977, p. 19.

<sup>163</sup> Baker 1977, p. 22.

<sup>164</sup> Wrightson 1980, p. 36.

<sup>165</sup> Baker 1977, p. 24.

out the influence of immediate neighbours, did not necessarily mean that the traditional idea of 'good order' had been abandoned.

Correspondingly, Justices of the Peace only found it urgently necessary to set aside the independence of local constables and transform these into an instrument of authority, when they themselves sought to carry through a new public-order policy.

Most Justices of the Peace were concerned to carry out their office in such a way as not to damage the crown's goodwill. The change in the practice of public order was introduced – with some exceptions – above all by Justices who upheld puritanical (in the broadest sense) notions of 'good order'. These used the opportunities with which the crown had provided them by the expansion of their authority, and which they had acquired by the disciplining of auxiliary forces, in order to achieve the moral reform of society. Their pressing goal was not the maintenance of a practice of rule that had proved itself by not provoking discontent, but rather the realisation of specific principles.

Many of these judicial 'entrepreneurs of morality' (K. Wrightson) vigorously campaigned against traditional festivals and Sunday entertainments in the early decades of the seventeenth century. They sought to eradicate drunkenness, whoring and laziness root and branch, and took pains to ensure that Sunday was kept sacred and family ties respected. Many of these moral rigourists were prepared if need be to confront not only the lower orders, but also their equals and the king's advisers.

Conflict with the crown arose in particular over the attitude towards Sunday entertainments. Whilst many Justices would allow no sport apart from archery (useful for military purposes), and even this only after the end of a very long Sunday service, the crown passed laws in 1617, 1618 and especially 1633 that permitted a whole range of Sunday entertainments. Those Justices who sought to intervene on Sundays to prevent sin were told by their opponents that football was 'in the book'. Embittered Justices saw the 'book of sports' as evidence of the corrupt morality of the court. David Underdown points out that these laws represented, for the first time in England, a manipulative attitude to the stabilising contents of traditional popular culture.<sup>166</sup>

Forms of public communication such as those offered by market and feast days, and by sporting competitions, had always contained the possibility of

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<sup>166</sup> Underdown 1985, p. 70.

erupting into rebellious behaviour, but at the same time they signified fixed points in the annual course of a public life that was integrated into the practice of traditional rule. Only when the moral reformers forced members of the lower orders to defend the manner and form in which they sought recreation, did dancing, card playing and enthusiasm for a good game of football come to be seen as acts of resistance against authority. Whether such resistance was actually practised, to what extent and with what success, depended not least – as Underdown has shown – on the regionally dominant forms of agricultural production and the patterns of settlement and communication that corresponded to these.<sup>167</sup>

Defence of custom as the guiding thread of public-order practice remained, on the whole, confined to particular spheres. If Justices went so far as to whip not only young ‘vagabonds’ and put them in the pillory, but old ‘vagabonds’ as well,<sup>168</sup> this was a *departure* from custom. The same went for the constables if they reported ‘vagabonds’ or even arrested them themselves. J.S. Sharpe reports how in 1621 villagers attempted to prevent the imprisonment of a ‘vagabond’. There must have been many instances of this kind, whether documented or not, but they were not typical. The case rather seems to have been that in the course of the sixteenth and seventeenth centuries wandering beggars lost whatever protection they had traditionally enjoyed – limited though this may have been – on the basis of the commandment of Christian charity and noble hospitality.

On the whole, the criminal practices that made up the *actual* core of Elizabethan Poor Law met with little resistance.<sup>169</sup> For example, in a district of Lancashire that has been studied in detail, it was reported that the local constables increasingly reported ‘vagabonds’ in the 1630, though offences by local persons continued to be reported only rarely.<sup>170</sup> The harshness of the law was thus applied selectively according to social criteria, and in this the forces of order enjoyed – on the whole – the support of the population. (At the general level of our discussion here, the differences between village and towns – with the exception of London – were no greater than those between different rural

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<sup>167</sup> Underdown 1985, Chapter 1 & passim.

<sup>168</sup> Underdown 1985, p. 36.

<sup>169</sup> Sharpe 1977, p. 103; Walter 1980, p. 73.

<sup>170</sup> Wrightson 1980, p. 37.

districts.) This attitude can be explained principally because the number of itinerant poor had grown since the second half of the sixteenth century, while after the wars of the late sixteenth and early seventeenth centuries, many discharged soldiers (and in 1627–8 many deserters) wandered the countryside and resorted to begging until they could find new work. At least equally decisive, however, were the changed preconditions for the social perception of poverty, since public-order practices were determined not by the objective situation, but by the shape and form in which this situation was regarded and defined as a ‘problem’ in (power-structured) public discourse (according to P. Slack).<sup>171</sup> It was in this connection that the differences between the material conditions of life of members of the non-privileged orders, which had grown since the second half of the sixteenth century, acquired their significance for public-order policy.

With the formation of a group of materially better-off families who regarded themselves as righteous, and the simultaneously deteriorating situation of members of the lowest social strata, tendencies to socially exclude the poor were increasingly marked. Initially the poor from other districts were discriminated against, then also the local poor. In these processes of social differentiation (if not outright polarisation), Poor Law repression obtained a support that went far beyond the ruling orders. As a result of these social changes, the preconditions for traditional ways of securing peace in the neighbourhood also disappeared – at different rates according to the particular region.

What appeared in their place – increasingly after the sixteenth century – was a public-order strategy that continued through to the nineteenth century to serve the *ancien régime* in England as a typical way of dealing with social unrest. Its application was provoked by the fact that even those inhabitants of villages and towns who did not seek to be seen as respectable and were constantly in need, had only two possibilities of making their claims known: petition or rebellious behaviour. The limits were fluid, as ‘trouble-makers’ generally also petitioned, and the authorities often defined even the process of petitioning as rebellion. If the demands made by way of petition and ‘disturbance’ were recognised at the local level as justified or at least understandable, many Justices applied a procedure that was not envisaged in the laws

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<sup>171</sup> Slack 1984, pp. 221–2.



of the kingdom or the decrees of the Privy Council, using the power of their office to settle social conflicts politically. They were all the more ready to do so if the protestors stuck to forms that affirmed their basic faithfulness to the law.

That 'trouble-makers' were very largely aware of these preconditions is shown by the formulations of their petitions, not least by the fact that in cases of inflammatory price rises bread was not simply appropriated, but sold at the price that was deemed as just and the proceeds paid out to the bakers. This perspective also explains the attempt by protestors that J. Walter reports, for legal advice in respect of their demands and behaviour.<sup>172</sup>

Local conditions, and the specific conduct of rebels and magistrates, varied, as did the occasions that provoked rebellion. The numerous studies of particular 'disturbances' that we now have to hand, however, demonstrate a fairly clear pattern of a regular procedure for settling conflicts that was set under way by both sides.

It was not rare for Justices to use the occasion of 'disturbances' to protest against particular measures of the crown – such as the granting of export licenses in times of inflation.<sup>173</sup> Most of them were only prepared to enforce the drastic measures that the Privy Council prescribed for all cases of social unrest, if they feared for the property of the wealthy or even their own life and limb. If this was the case, then draconian punishment was applied – just as in other societies of the '*ancien-régime*' structure. A differentiated response to demands of the (lower) people, however, must have been sufficiently common for the 'rebels' to submit time and again to the unwritten laws of this practice.

If the Justices of the Peace, either by themselves or (as was later the general rule) together with other members of the responsible Commission of the Peace, negotiated with rebels and on occasion sought to abolish particular conditions that had inflamed them, they were guided in the first place by local requirements for the maintenance or restoration of orderly conditions, and not – as the Privy Council demanded – by general legal provisions. This practical criticism of a universal validity of the equation of 'order' and 'law'

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<sup>172</sup> Walter 1980, pp. 59, 83.

<sup>173</sup> Baker 1977, p. 64.

continued the old practice of achieving local peace by 'neighbourly' compulsion. But the continuity ended here. For the 'settlement' of the Justices was an exercise of rule: the precondition for it was that the criteria for the legitimating of modes of behaviour by 'neighbours' had disappeared in the course of the sixteenth and early seventeenth centuries. Besides, the Justices possessed not just the means of social discrimination, but also those of specific and draconian punishment. The institutionalisation of estate-based local government practice revolutionised the social character of public-order practice outside the courts.

### b.3. *'The charms of the sovereign'*

In Section b.1 we announced the project of tracing the particular structural characteristics of the *ancien régime* in England by an analytical distinction between centralised and generalised power – in other words, between the policy of the crown and the practice of royal government by members of the ruling estates. The potential difference between the political goals that were pursued in each of these two spheres of royal policy formed a structural precondition for crises in the system of rule. Before this thesis is developed in more detail, it is necessary to warn against possible misunderstandings.

The distinction between centralised and generalised power remains purely analytical, in so far as all means of generalised power belonged to the reigning monarch *in person*. The application of judicial power on the basis of general laws and principles of common law, the command of armed men in war and the collection of taxes (down to contributions for the poor that were raised at parish level), took place in the name of the king or queen. This generalised power, however, was practised by men (in rare cases, such as the administration of wardships or forest rights, possibly also by women), who served the king or queen in this way. This personal character of rule is not easy for social scientists of today to comprehend. They are inclined therefore to see the servants of reigning monarchs as executive organs of an early modern state, and to equate this generalised power with the 'public power' that is customary in modern times. Ernst Kantorowicz, for example, concluded from the contemporary doctrine of the 'two bodies of the king' that royal rule in England under the *ancien régime* was distinct from the person of the king and conceived as a power of public office. As evidence of this conception, Kantorowicz adduced

the quasi-legal argument that was made by Parliament when it took up arms against Charles I in 1642.<sup>174</sup> Frederic William Maitland, on the other hand, saw this rhetoric of revolution as no evidence for structural developments having already taken place, no more did George E. Aylmer later on. Aylmer held to the fundamental structural difference between service to the king and a state bureaucracy, and argued that until 1649 there were no indications of the latter as yet in England.<sup>175</sup> Maitland emphasised that the king's rule in England was not developed until the seventeenth century as a power of office distinct from the person of the king, rather the arbitrary power of the king that was in principle unlimited had to be removed step by step in the form of legal regulation.<sup>176</sup> If kings kept to such limitations in their practice of government, they did not thereby become organs of a public power. The government remained the property of a royal person, but disposal over this property was limited by custom, by formalised 'arrangements' and specific conditions of rule.

In the process of formation of the *ancien régime*, i.e. the generalisation of estate interests, it was especially the king's disposal of feudal tenures that was to a large extent withdrawn (by fiscalisation). Kings thus lost those foundations of their power that for the sake of simplicity we sum up as 'feudal'. But this was far from amounting to the decisive weakening of personal rule, and thus the beginning of modern statehood, that has frequently been supposed. For out of the (above described) generalisation of estate interests into an instance that sanctioned private power of appropriation and whose authority also extended to the political mastery of social crises, personal monarchical rule obtained a new social basis.<sup>177</sup> This development became possible and was strengthened by the 'end of rebellions' of the high nobility, which Lawrence Stone has treated in detail.<sup>178</sup> Since the nobles lost to a large extent their private possession of armed force, they became *court nobles*. (A term that refers here to the conditions of reproduction of their political power.)

The structural change in the basis of royal rule was expressed in the formula of the 'King in Parliament'. This did not mean that Parliament had appropriated the previous royal possession of rule. Even after the Reformation this

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<sup>174</sup> Kantorowicz 1957, p. 23.

<sup>175</sup> Aylmer 1974.

<sup>176</sup> Maitland 1968, pp. 73–103.

<sup>177</sup> Ibid. Cf. Section a.3 of this chapter.

<sup>178</sup> Stone 1965, pp. 250–68.

was not the case – as noted above. When Henry VIII set out to free the English kingdom from the sphere of papal rule, he used Parliament as an ‘instrument’ of his policy.<sup>179</sup> This policy cost him lands, titles, and tenancy concessions, but it did not lead to kings and queens having to make future decisions of religious policy even in agreement with Parliament.

When, in 1604, James I decisively rejected the demands of the Puritans for the disempowerment of bishops, at the theological conference he had called at Hampton Court, this occurred in the context of the Privy Council and not in Parliament.<sup>180</sup> This did not lessen in any way the effect of his decision, nor did it lead to any kind of crisis for the church or the monarch’s own power.

The ‘King in Parliament’ continued to be the king in *his* Parliament, i.e. an assembly that was called and dismissed at the request of the monarch, and whose participants, though they might well permit themselves forceful criticism of the present course of government, would attend Parliament again after a spell of imprisonment in the Tower of London. For this reason, it is also proper to speak of ‘parliaments’ in the plural rather than in the singular. The establishment of Parliament as such, an institution independent of the will of the monarch, was a revolutionary act. This institutionalisation of Parliament was only decisively accomplished at the turn of the eighteenth century (cf. below).

Parliaments could be used for the settlement of disputes (in the form of ‘private bills’). They served to inform the king or queen – in pressing terms, if necessary – as to the conditions of their rule. Only in relation to the granting of taxes, however, was it established under the *ancien régime* that reigning monarchs, if they wanted to effectively collect the taxes they had demanded, had to seek the approval of Parliament. The possibility of refusing such taxes, however, as we have already shown, was quite limited, and the extra-parliamentary practice of royal fiscal power in no way completely eliminated.

In the phase of the *ancien régime* under discussion here, the centre of policy did not lie in Parliament, not even in the connection of Parliament and the Privy Council. The centre of policy was rather the court. It was at court that factions were formed – on the basis of competition for patronage, personal intrigue, kinship connections and serious political convictions – and sought

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<sup>179</sup> MacCaffrey 1982, p. 130.

<sup>180</sup> Cf. Collinson 1983, pp. 27–51.

to influence the king or queen. Sometimes these factions lasted only a short while, occasionally they persisted for years. When Parliaments were called – as a temporary expansion of the Privy Council – these court factions sought to win broader influence there. In this connection, the influence that great nobles exercised on members of the Commons by the use of their patronage was of particular significance for the government of England.

The view upheld by many authors that the Commons was politically completely in the hands of influential lords, overlooks the fact that members of the gentry, if they profited from patronage, did not necessarily have to see themselves as ‘bought’. The lords, too, were required for their part to take into account local expectations, if they wanted to be powerful in one or more counties, and on this basis have influence at court.

The court, moreover, was not just the centre of policy, it was also a means of policy. By creating a splendid surrounding for the royal person, the court represented the personal structure of rule. In court ceremonial this form of rule was staged afresh each day – with distributed roles. The more that the art of representation developed, in the historical epoch that art historians formerly described as the Renaissance, and the more successfully this art began to spread over time to the various princely and royal courts of Europe, the more impressive was the new definition of personal rule that now materialised. This did not replace the foundation of personal rule in power and religion, it was rather the expression of an established structure of rule, generalised in ‘institutional’ forms. The magnificence of power not only became itself a power factor, but also a justification presupposed and inherent in it. At the various princely and royal courts, the new social forms of presentation of personal rule, and the external attributes corresponding to these, rapidly acquired quite different forms. We cannot deal in any detail here with this development. The following presentation will be confined to highlighting two circumstances that influenced the structural change in the definition of personal monarchical power in England in a specific fashion.

One of the most important political functions of the court lay in the power of conviction that the secular cult of the royal person could wield. For the ceremonial surrounding the person of the king cast a quite special light on royal decrees. It was of particular significance, therefore, that the cult of the king’s person developed in very particular historical circumstances in England. Its origins stretch back to the reign of Henry VIII, thus to a time when opposition

to papal rule became integral to the definition of the personal rule of English kings. At first, this definition was not yet irrevocable. Only with the reign of Elizabeth did anti-papism, i.e. the struggle against views and policies that rightly or wrongly were seen as supporting papal rule, become a fixed component of the politically dominant discourse. This made the eagerness for correct belief into a new (additional) basis for the personal power of the English monarchs – at the end of the sixteenth century. It can be described, with all due caution, as the formation of a plebiscitary element in personal royal rule.

The facts that Elizabeth was a woman and that the enemies of 'England' were Catholic were both favourable to this development. When Elizabeth's reign began, the crown had already lost Calais (its last possession on the Continent), the coffers were empty, the Reformation was on the retreat, her claim to the throne was challenged and she was surrounded by Catholic enemies. Whether there really did develop between Elizabeth and the English people that 'bond of love' lasting for forty-five years that Garrett Mattingly describes,<sup>181</sup> or whether historians too have been taken in by the legend of Good Queen Bess, it remains incontestable that the actual weaknesses of the English crown, and the supposed weaknesses of the unmarried (and hence supposedly virgin) woman, were turned into a strength of her personal rule.

This development found expression in the 'Association' that was founded in 1585 for the protection of the royal person in case of an invasion. The formation of this Association harked back to forms of medieval vassalage and loyalty, thus to structures of obligation to which the English monarchs had for a long time ceased to lay claim. More significant, however, was the readiness to contribute to the organisation and formation of the militia. The inconveniences that attended the muster could be borne more readily, not just by the prospect of beer, but also by the fact that it was seen as service to a lady whom many honoured already in her lifetime as the 'faery queen'.<sup>182</sup>

Elizabeth's lifetime also brought much experience of the harshness of royal caprice, and much rumour of unheard-of presents to the queen's favourites. Yet it was not just painters, poets, courtiers and clerics who idealised the queen. In the popular idealisation of Good Queen Bess – which continued to circulate after her death – a new element was added to the definition

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<sup>181</sup> Mattingly 1988, p. 23.

<sup>182</sup> Palliser 1983, p. 301.

of personal royal rule: the idea that this rule was not just the property of a person, but could rather be deployed as a service to the good of all. Under the particular circumstances of female succession to the throne and the wars against 'papists', there rose in late sixteenth-century England the beginnings of the concept of rule that was later summed up elsewhere in the notion of the father or mother of the country. That neither James I nor Charles I could meet this new expectation of royal governing practice must be assumed to have marked discourse about their government in a specific way. (The interpretation offered here is that criticism of the governments of the two early Stuarts should not be understood exclusively as a reaction to the specific content and form that these took, but also referred to the way that in the reign of Elizabeth new ideas of personal rule arose that henceforth became effective requirements.)

The 'charms of the sovereign' that blossomed so particularly under Elizabeth were cultivated at all royal courts of the *ancien régime*. They became a component of the social forms in which the 'policy of the crown' came about. The cult of the royal person facilitated the prosecution of this policy, while at the same time the presentation of royal splendour and magnificence concealed new elements of crisis within it. In different ways, these dangers became apparent in the reigns of the two Stuart kings.

The personal character of royal rule was embodied, among other things, by the fact that royal favour could procure money and land even irrespective of established positions of power and 'justified expectations', also that it was not completely calculable, but continued to depend on individual propensities and moods of the royal person. This arbitrariness of royal favour was a material precondition for the reproduction of the social forms of court life, which was organised around the 'proximity' of a person. It was at the same time – and for England in particular – a structural precondition that could generate crises of government. There were three particular reasons for this: because the court nobles of England were concerned to procure and maintain a political basis in the counties and hence also in the Commons by way of patronage; because the crown could not alienate its creditors, especially the privileged corporations of London; and because new (estate) privileges could damage the maintenance of traditional forms of appropriation and for securing rule.

The example of the soap monopoly, which at first sight might seem incidental, already indicates certain difficulties inherent in the policy of privileges.

David Underdown's study of the cultural norms and political orientations of the lower orders makes clear the potential scope of these. When Charles I granted courtiers permission to enclose wooded areas and turn them into private property, or to drain marshes, what was reduced in the first instance were the reproduction prospects of the poorer rural population. If these rebelled, however, they were often supported by the better-off, and even by the members of the local gentry. Modernisations of this kind, moreover, also had an effect on the appropriation opportunities of the more well-placed strata, and above all they reinforced opposition to a policy that favoured outsiders. By granting privileges to courtiers, the crown dealt a blow to traditional structures of reproduction and practice of rule, and proved itself a danger to peace and order in the counties.<sup>183</sup> Social conflict thus developed into criticism of the government. Rebellions against enclosure did not express so much an antagonism between classes, as rather a conflict between greedy upstarts on the one hand and defenders of local order on the other.

It was not just in relation to the political requirement and simultaneous political risk of granting privileges that the new emphasis on the personal character of royal power signified both a growth in this power but at the same time a new danger for it. For new possibilities of government crisis arose in so far as monarchs and their advisers could themselves be confused by the representation of royal power, and forget the fact that English kings were powerful only to the extent that they succeeded in winning the support of the great nobles, and above all of the lesser nobility. The forms in which the policies of the crown developed could easily deceive people about the fundamentally precarious position of centralised monarchical power, which could be mended neither by reform of the crown's own apparatus of government, nor by the reconstruction of administration and justice, nor again by reform of the militia. As a general rule, however, the limits to the royal power of government were not immediately visible.

It was possible for example for the king to start a war even if Parliament refused its consent. But in the course of this war – as Charles I had to painfully experience – it became more than clear that taxes, soldiers, shipping, horses and provisions could not be obtained in sufficient quantity if those

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<sup>183</sup> Underdown 1985, pp. 108–13.



who represented the government of His Majesty in the counties were not willing to make extraordinary efforts in support of the king's policy.

A rationally calculating judgement of royal decrees, however, was blocked both by the traditional notion of obedience and by the newly developing cult of the royal person. Whether a (mainly) practical criticism of royal policy would develop, and on what scale, depended on individual conviction, local structures of the noble hierarchy, and local conditions of ruling practice.

From the 1620s, the possibility for divergence between the policy of the court and local expectations of this policy took the form of an opposition between 'court' and 'country'. Court in this connection meant the centre of individual interests.<sup>184</sup> This criticism was fuelled by James's inclination towards his favourites – which soon became notorious – and the advancement of new peers by way of patronage. In the 1630s, the criticism of favouritism was supplemented by opposition to Charles I's strategy of 'thorough', i.e. the effort to effectively apply the king's (military) policy in the counties.

We now reach another of the preconditions for crisis that had newly arisen. For whilst, on the one hand, the limitations of royal executive power can hardly be overrated, and must be constantly stressed against new interpretations that see the letter of the law as expressing political reality, it should also be reiterated on the other hand that as the *ancien régime* developed, the generalised royal power literally came to affect people more directly. The relationship of monarch to subject, which was previously characterised chiefly by fiscal exploitation and by commands to *refrain* from particular actions, was now extended to a relationship of regulating intervention – or at least the beginnings of this. This development is most clear in the command of the crown to practise the correct faith in specific politically controlled modalities. To a degree that was previously unknown, however, the reform of the militia (undertaken by Elizabeth) and the more effective handling of social crises (under Charles I) as prescribed in the 'books of order', represented such an intervention. It was only because the practice of generalised monarchical power was effectively intensified, and estate exercise of this power was de facto checked to a certain extent, that the policies of the crown could be perceived at certain times as a disturbing factor to the implementation of estate interests in the regions.

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<sup>184</sup> Zagorin 1969, p. 32.

Talk of an opposition between court and country reflected the process of *de facto* generalisation of royal power, and the new elements of crisis, that arose from the (newly reinforced) personal character of royal rule. Because this intensification of the exercise of generalised monarchical power under the English *ancien régime* came about by estate rule in the counties being expanded and stabilised, criticism of the specific practice of royal power could take practical form in an independence of estate rule from royal policy. The possibility of such divergence was a crisis-bearing element of *government* practice. But it was also a precondition for the structural crisis of monarchical rule.

#### b.4. *Divergence between centralised and generalised power:*

##### *The crises of Charles I's reign*

If we try to compare the extent of the difficulties with which Henry VII or Elizabeth were confronted at the start of their reign with those that Charles I encountered in the prosecution of his policy, it is hard to reach an unambiguous conclusion. The only clear point is that since the reign of Henry VII, and not just that of Elizabeth, not only had the structural conditions that generated government crises changed, but so had the pre-conditions for resolving these. One of these structural preconditions, the strengthening of the generalised personal power of the English kings together with the expansion of estate possession of the means of local government power, has been discussed in some detail in the preceding section. Also relevant here, as we have already indicated, is that the appropriation of rule over religious power led to a situation in which particular expectations of religious policy were henceforth directed at royal policy, and to that extent the room for manoeuvre for the pursuit of dynastic aims was narrowed. This structural change in the conditions of royal policy assumed particular importance in connection with the – international – rise in the costs of war.

This situation, however, only led to a crisis of government in so far as the goals of the monarch's militia policy found no support in the country. In this case, as Conrad Russell has shown in some detail,<sup>185</sup> the military failure of the crown was pre-ordained as a result of refusal of finance. Charles I conjured

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<sup>185</sup> Russell (ed.) 1973, pp. 91–116.

up this very situation when he not only refused to expand his (temporary) anti-Spanish policy into a systematic anti-Catholic policy, but eventually even went over to a pro-Spanish policy. Simon Adams stresses this aspect against explanations that ascribe this whole process to the increased cost of wars.<sup>186</sup> This foreign policy aroused the distrust of all who feared that the king was well disposed towards 'papist' tendencies.

At the same time, Charles followed an orientation in church policy described as Arminianism, seeking to increase the rule of bishops and with it the influence of the royal governor of the church. Its supporters strove for a practice of faith that many saw as an attack on Protestant convictions. The king succeeded in promoting the dominance of this orientation among the religious hierarchy. He appointed Laud, the most prominent representative of Arminianism, as archbishop of Canterbury. (The church policy of the time is accordingly known sometimes as Laudism.) He moved bishops acceptable to him to important sees, and representatives of other orientations to small and less rewarding ones. The crown appointed clerics with Laudist sympathies as Justices of the Peace, seeking in this way to influence local government policy. Charles I also sanctioned the practices that priests should wear a stole, that believers had to kneel for communion, that a cross should be used for baptism and that altars should be separated off from the congregation. But conditions for the acceptance of a substantial change of direction in religious policy had fundamentally shifted since the reign of Queen Mary, as also had those for the toleration of attacks on the estate possession of local government power. It was for precisely this reason that the supporters of Arminianism were led – conversely – to stress the unimpeded personal power of the monarch as against Parliament and local government representatives. In this way, Laudism provided the theoretical basis for the complete subordination of the king's servants to the instructions of their master.

As early as 1627, two sermons were delivered on the subject of the forced loans and imprisonments for refusal to pay that had been imposed, to the effect that a penalty imposed by a prince had to be accepted without complaint, even if the princely command went against the law of God or nature, or was impossible to fulfill. Demand by the authorities for payment was also to be obeyed even if its formulation did not follow all the particulars of 'municipi-

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<sup>186</sup> Tomlinson (ed.) 1983, pp. 86, 99 & *passim*.

pal laws'. The authors of these sermons were violently attacked in Parliament, but successfully protected by the king, as might have been expected.<sup>187</sup>

Royal control of religious power was designed as a foundation for the identity of centralised and generalised monarchical power. But since Laudism lacked any broad support in the community, its legitimating of monarchical absolutism had the opposite effect: it provoked the view that it could be legitimate on grounds of faith to combat the rule of the bishops and thus also the extent of royal rule over the practice of faith. When Charles I sought to use Laudist clergy to implement ecclesiastical practice not just in the kingdom of England, but also in Ireland, Scotland and the overseas colonies, this policy led to splits in the Church of England, and especially to the transformation of Puritanism into an opposition movement in church policy.

In connection with these conflicts, the decisions of the court of High Commission in which the crown determined questions of church law, received an importance that went beyond the immediate issue. For many, the question now was not just the outcome of particular conflicts, but the extent of royal prerogative power.

In a situation of widespread criticism of the aims of royal policy in the field of religion, other policies also came to provoke opposition in the counties. The instructions to punish the desertion of soldiers with draconian measures, to raise taxes including the so-called 'ship money' that was now generally demanded, to supervise the arming of the militia and organise military training for its members, all met with more-or-less open resistance, which naturally differed from place to place. In several counties it was difficult to find occupants for vacant seats on the commissions of the peace.

The English crown scarcely had at its disposal personnel who could have used the expansion of prerogative power for their material and social ascent. As has been discovered from local studies, the king's servants in the counties did not take a great interest in the constitutional struggles over the extent of this prerogative. Whether the king was justified or not in demanding ship money, so John S. Morrill said in the election of 1640, was not the question at issue.<sup>188</sup> Justified or not, ship money was felt as an intolerable burden,

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<sup>187</sup> Alexander 1968, p. 150.

<sup>188</sup> Morrill 1980, p. 30.

precisely because the political necessity for this tax was not recognised. The same went for the decrees regarding the militia.

Hugh Trevor-Roper has proposed that the oppositional tendencies, or rather 'attitudes', that are summed up in the topos of 'court and country', should be equated with the *frondiste* opposition movements that developed in the first half of the seventeenth century in France and elsewhere as a resistance to the claims of the crown.<sup>189</sup> The Fronde, however, sought to defend existing private rule against strategies of generalisation of monarchical power. In England, on the other hand, the generalisation of monarchical power was long established, and the fact of this generalisation was not an object of criticism even in the reign of Charles I. What was criticised – I deliberately simplify here – was the content of the policies that the crown pursued, and the manner in which individual members of the higher nobility materially profited from the generalised royal power.

### c. The partial revolutionising of the *ancien régime*

*Digression: The English Revolution as object of strife between historical interpretations*

This is not the place to discuss the controversies over the English Revolution. Some of these controversies, in particular the long-lasting debate over the 'rise of the gentry', can now be seen as largely resolved; others still continue. The reason they are so violent and bitter is that the disputes as to whether revolutions occurred in 1640, 1660 and 1688–9, and if so, whether they were structurally necessary or accidental, whether 1640 was a bourgeois revolution that not only changed the organisation of political power but also hastened the breakthrough of capitalism – involve fundamentally opposing principles of theory as well as of political orientation. This creates preconditions for scholarly debate in which – at least so long as passions are high – representatives of each position avoid seriously considering the other's perspective 'like the devil avoids holy water'. It has generally taken – and still does – a change of generations until interpretations prevail that are not viewed by their original

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<sup>189</sup> Trevor-Roper 1965, pp. 59–96.

opponents as sins against the foundations of their particular interpretative perspective.

In this respect, debates about the English and French Revolutions are very similar. The theoretical approaches that were dominant in the social-structural interpretations of both revolutions (and in part still are) assume trans-historical 'laws' of social development. This position is thoroughly criticised in the present work, along with the de-historicising of class analysis that is bound up with it. Instead, the specific form of rule under the *ancien régime* is ascribed particular structural relevance for the development of social relations, and also therefore for the social forms of production and appropriation. 'Politics' is then something other and more than the expression of social relations, and the action of individuals is ascribed a relevant significance in conditions of personal rule – in certain circumstances even a significance for structural change.

On this basis, I also maintain therefore that some of those views put forward with the intention of a devastating criticism of materialist interpretations, are in fact perfectly compatible with these. The same goes for the relation between 'Whigs' and 'revisionists', which I shall come on to below. To take just one example, Conrad Russell's attack on the thesis of a long-term developing crisis of the system of rule is not incompatible with Jack Hexter's or Derek Hirst's emphases on a demonstrable consciousness (in Commons debates) of the freedoms of Englishmen. For, in the context of the actual crisis that did break out, the previous debates show previous conflicts in a particular light. They could also be appealed to as legitimisation for particular – currently motivated – strategies.

Controversy over the character of the revolution – this much we can already say by way of generalisation – has been principally waged as a dispute over the *preconditions* of the revolution. True, the so-called 'revisionists', who insist that the revolution was not due to long-term processes of crisis, but rather arose accidentally, admit that once war had broken out it developed into a struggle over the structures of power, but for both them and their opponents, the concept of a 'bourgeois revolution' stands or falls with the critique of a structural necessity.

In the present context we do not need to rehearse once again the old debates as to whether there was a revolution or just a rebellion. A sufficient point of departure here is provided by the so-called 'Whig interpretation', which

became decisive for the English national legend. This was seminally advanced in the ten-volume history of England that Samuel R. Gardiner published from 1883 onward.<sup>190</sup> In the Whig interpretation of English history, freedom was (and is) understood as a basic human disposition. In the course of the historical process – so this interpretation has it, in its more recent as well as its classical formulations – freedom has increasingly developed, so that it came to determine people's thinking and eventually (or even, consequently) also their action. England is seen as the hearth of freedom, as it is here – from Magna Carta via the revolution of the seventeenth century through to the reforms of the nineteenth – that its progress has been constant.

In this model of interpretation, the revolution is seen as a necessary result of the – sharpening – conflicts over questions of constitutional policy that were waged between the crown on one side and the House of Commons on the other. This position, which in a more moderate form is still represented today, has been criticised from two very different angles.

The first criticism was by materialist interpretations that proceed from a social-structural necessity of revolution. The second was by the so-called revisionists, who set themselves against both the Whig and the materialist interpretations.

In actual fact, there are considerable points of agreement between the Whig and the social-structural interpretations. Both have at their core a notion of progress, and both see (or saw) the gentry as the most important group bearing this historical progress, and as a group that developed in distinction from the (high) nobility. The notions of bourgeois freedom that are central to the Whigs are generally understood by Marxists as correlative to an interest in the breakthrough of capitalism. Finally, the necessity of the revolution in both interpretations is rooted in the structures of the *ancien régime*. The immediate occasion, and the conduct of particular individuals, is left to historical accident (this is particularly clear in Lawrence Stone).<sup>191</sup>

The materialist line of argument was developed in three successive stages, starting with R.H. Tawney's thesis of the rise of the gentry. According to Tawney, the gentry were the bearers of new and capitalist forms of production and appropriation. The question for them in the seventeenth century,

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<sup>190</sup> Gardiner 1965 (new edition).

<sup>191</sup> Stone 1983.

therefore, was to attain a position in the system of power that matched their material advance. We need not go into the many objections that were made against Tawney, and later against his critics, but simply stress once again that Tawney, though he did not define himself as a Marxist, applied to English history of the sixteenth and early seventeenth century a model of the bourgeois revolution that was taken from Marxism. He made the gentry the bearers of the development of capitalism, and thus at the same time a kind of early bourgeois class. This simplification does not do justice to the differentiations and insights of Tawney's work, but it does sum up its effect. If today, once again, M.L. Bush can describe the gentry as the lesser nobility of England,<sup>192</sup> a great deal of water has flowed down the Thames in the meantime. 'The storm over the gentry', which Jack Hexter unleashed several decades back in an essay that rightly became a classic, held a whole scholarly generation in thrall.

The next – and subsequently dominant – version of a materialist interpretation was presented by Christopher Hill. His slim volume on *The English Revolution 1640*<sup>193</sup> developed the interpretative model of a 'bourgeois revolution' according to which shifts in power were determined by changes in social structure. By far the most comprehensive part of his discussion bore on the 'economic' and 'political' background to the revolution. The small section on the Revolution itself chiefly contained references to structural change. For Hill, the Revolution was a structural necessity, and since its outcome was not in question in his view, the analysis of its course had no further interest.

In a certain sense, the third stage of the argument supplemented the two previous ones. In his work on *The Crisis of the Aristocracy*,<sup>194</sup> Lawrence Stone presented the structural preconditions of the revolution as a legitimisation crisis of royal rule. This had come about because the great noble families sought to overcome a crisis in the material reproduction of their rule which had developed from the late sixteenth century, by obtaining lucrative offices and presents from the crown. This in turn necessarily brought the crown into increasing disrepute. The catalysts of the Revolution were accidental for Stone, though he too saw its causes in the long-term changes of social structures.

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<sup>192</sup> Bush 1983; Bush 1984.

<sup>193</sup> Hill 1940.

<sup>194</sup> Stone 1965.



In the meantime, champions of materialist interpretations have been convinced in many particulars by the arguments of their opponents. In 1981, Christopher Hill accepted that the debates over the empirical viability of the thesis of the rise of the gentry had proceeded from an 'ill defined class',<sup>195</sup> and in 1985 Lawrence Stone summed up his position:

Hill and I are thus now in agreement that the English Revolution was not caused by a clear conflict between feudal and bourgeois ideologies and classes; that the alignment of forces among the rural elites did not correlate with attitudes towards ruthless enclosure; that the Parliamentary gentry had conscious intention of destroying feudalism; but that the end result, first of the royal defeat and second of the consolidation of the defeat in the Glorious Revolution forty years later, was decisive.<sup>196</sup>

Both Stone and Hill, however – not to mention Brian Manning – stick to the kernel of their respective arguments: Hill to the 'economic causes' and Stone to the crisis of the aristocracy.<sup>197</sup>

With George R. Elton, whom the present generation of 'revisionists' regard as their ancestor, there began the systematic critique of both versions explaining the revolution in terms of long-run processes of crisis. Since Elton, as noted above, shifted the most important changes in the direction of a constitutional monarchy back as far as the 1530s, the struggles between the king and Parliament that led to civil war a century later could not in his view have had the kind of major structural significance that was traditionally supposed in the Whig interpretation. Elton's critique of the notion of a 'High Road to Civil War'<sup>198</sup> can be seen as the guiding principle in the research of those historians who have come to be grouped under the general rubric of revisionists.

Conrad Russell emphasised the (financial) burdens that war imposed on governments. He pointed out that the cost of war had risen internationally, and proposed to replace the former focus on 'internal' developments by a greater regard for foreign policy as a factor of crisis.<sup>199</sup> This perspective has since gained a great deal of ground. It is necessary to bear in mind, however

<sup>195</sup> Hill 1981, p. 101.

<sup>196</sup> Stone 1985, p. 53.

<sup>197</sup> Elton 1980, pp. 109–39; also Stone and Fawtier Stone 1984, p. 400.

<sup>198</sup> Elton 1966, pp. 315 ff.

<sup>199</sup> See in particular Russell (ed.) 1973, pp. 91–116.

(as was already objected above in relation to Simon Adams), that these government difficulties found expression in particular goals of religious policy.

Moreover, Russell himself always stressed that for the early decades of the seventeenth century there was no institutionalised right of participation, so that one should not speak of Parliament in the singular but still of the king's parliaments in the plural. (On this point, which divides Russell from Elton, I am in wholehearted agreement.) The practice of personal rule, which Charles substituted after 1628 for his struggles with parliaments, can thus no longer serve as evidence for a far-reaching crisis of rule.

A far more important strand of argument of the 'revisionists' was directed against the role of the Commons, and consequently against the thesis of a crisis of the aristocracy. Authors such as Paul Christianson (1977) and J.K. Gruenfelder (1977) not only put forward the view that the political role of the House of Lords had long been undervalued, they saw certain peers as the real puppet-masters of the political development that eventually led to war. On occasion, this argument bore surprising fruit. As far back as 1981, Christopher Hill in his memorial lecture for John Neale made fun of Farnell's thesis which explained the presence of many seamen at certain demonstrations by the fact that the Earl of Warwick and young Vane had access to the muster rolls of the vice-admiralty:

We can visualise the scene. Warwick and Vane slip off, late at night, to the admiralty, run through the books and say "Ha: A.B. Seaman Joe Bloggs, 137 Mile End Road. Send one of our client M.P.s along to order him to report for demonstration at 7.0 a.m. tomorrow".<sup>200</sup>

The 'revisionist' interpretation reduced politics to a struggle for positions. The exclusive material for historians, in their conception, should be actual behaviour, rather than the fine language by which the Whig historians let themselves be blinded. It was pointed out on many occasions (most recently by J.C.D. Clark),<sup>201</sup> that these analyses were evidently influenced by an interpretative model that had for a while dominated research into the eighteenth century. Lewis Namier had analysed politics in the reign of George III as the result of a competition for positions (and money), and ultimately as an

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<sup>200</sup> Hill 1981, p. 10.

<sup>201</sup> Clark 1986, p. 23.

accidental result of connections and intrigues between cliques of nobles. While the so-called Namier model had in the meantime lost its persuasiveness among historians who specialised in the analysis of eighteenth-century English society, it celebrated a happy return in the historiography of the early seventeenth century.

Detailed analysis of government policy was extremely fruitful in so far as it led to criticism of over-generous postulates of structural necessity, and reservations about the heroic epic of the untiring champions of the 'freedom of Englishmen'. Its limitations lay in the application of an unhistorical model of politics. For even convincing criticism of the much favoured idea of a steadily sharpening constitutional conflict between crown and Parliament – from the apology of 1604 (by which Parliament informed James I of the conditions for the exercise of his rule, in particular regarding the granting of privileges), via the Parliament of 1628 to the events of 1640 – does not contradict the fact that the published arguments of the earlier parliaments only made an appearance in the political discourse of later conflicts to the extent that they encouraged, or at any rate introduced, certain perspectives, once the conflict was under way. But, as we have already said, this means that Russell and Hexter are both right. In this connection, the broadening of the literary public in the – numerically increased – ranks of the gentry is also significant.<sup>202</sup> This changed the preconditions for the possible effects of political conflict.

The same goes for a whole series of the changes that Lawrence Stone notes in relation to the ruling practice of the great nobles. Even if the thesis of a structural crisis of noble rule cannot be upheld, changes in the basis and practice of this rule must still be taken into consideration. The 'end of rebellions', these being understood as the organisation of *private* armed force against the king, signalled a fundamental change in the strategies of the nobles. This change, however, was a structural precondition for the possibility of a civil war in which the king and his supporters were challenged by a *public* armed force organised by Parliament.

The 'revisionists' – and under this rubric we can include authors whose arguments otherwise differ greatly – confronted the previously dominant interpretations of the English Revolution with the results of painstaking

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<sup>202</sup> Morrill 1976, pp. 23, 35.

archival research. But this did not amount to a 'revision' of former interpretative models. What was required for this was the development of an explanatory approach of their own. Even those who follow the revisionists to a great extent in seeing the outbreak of revolution as not in itself necessary, may seek in their works in vain for an explanation of the fact that this outbreak was none the less possible, and that the conflict, once under way, led on to an assault on estate rule. Questions of this kind must be simply overlooked by the Namier model of explanation, as it brackets out structural preconditions for the *effect* of politics.

In the last two decades, historiography of the English Revolution has focussed significantly on regional and local research. As for other historical eras, works of this kind deal a blow to long-held ideas also in this field, and provide new insights into actual functioning of rule.

One of the earliest local studies on the history of the English Revolution was at the same time one of the most provocative. In 1966, Alan Everitt in his analysis of conditions in Kent during the revolutionary era put forward the view that it was not yet possible to speak of 'England' in the seventeenth century. Social conditions were too varied, and political developments were not explicable in terms of generalised interests and problems, but only of particular local conditions. What came to be described as the 'Everitt model' of interpretation performed the service of questioning the general significance of the political struggles pursued at Westminster. (But, if the relevance of constitutional conflicts for the outcome of elections to the 1640 Parliament is rejected, that does away not just with the Whig thesis of a long-run constitutional crisis, but also with the assumption of a legitimacy crisis of the crown.) The Everitt model abandons the question of how it could none the less happen that 'the kingdom' eventually found itself at war. For this to be the case, there had to be a certain practical generalisation of the exercise of monarchical rule, whatever its limitations (which in the present work I have repeatedly stressed).

More recent works, such as those of Anthony Fletcher and John Morrill, though they have stressed that the population in many places and regions were concerned at first to keep out of the struggle, and that the decision for one side or the other was made according to local conditions or sometimes simply because one side was quicker to demand arms and money (cf. below), have not ruled out influences of a wider nature. Underdown, however, sees in the developments of a practice of rule ('popular politics') that was in some

regions very advanced, one of the most important preconditions for political allegiance. Where, as especially in agricultural regions, the traditional forms of paternalist rule and popular culture had persisted, there was in Underdown's view a tendency towards royalism, and where these old forms of ruling practice and popular culture had broken down as a result of social polarisation and Puritanical ruling practice, there conversely developed in his view attitudes rather more friendly to Parliament. In so far as the orientations of the nobility held sway, Underdown attributes this to the persistence of the social basis of traditional 'deference'.<sup>203</sup> Underdown's local research is the most recent attempt at a materialist interpretation of (important elements of) the history of the revolution.

My own interpretation very largely coincides with the structural-analytical arguments of David Harris Sacks.<sup>204</sup> The 'localism' that he sees simply as a research mentality is, according to Sacks, an attempt to dispose of the relevance of both the Whig interpretation and materialist conceptions by contesting the national context of the conflicts. Sacks emphasises against this that a connection between local structures and 'central authorities' was always present in local conflicts. One of the key problems of the era, in his view, was the change in this connection.<sup>205</sup> To put it another way, he posits the structural possibility of a difference between generalised and centralised monarchical power, which only came into being when the generalised rule of the crown was established, whilst local control of the exercise of this rule was *simultaneously* broadened and stabilised. In connection with these developments, insistence on local autonomy was still a position in relation to generalised rule. If, as the 'revisionists' stressed, Englishmen (and certainly Englishwomen) were not concerned with matters outside their own county, this was not just due to tradition, but also to politics.

### c.1. *The English Revolution as event and structural change*

In the English Revolution, the monarchy, the House of Lords and the rule of the bishops were all done away with, and a republic established. The most

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<sup>203</sup> Underdown 1985, *passim*.

<sup>204</sup> Sacks 1986.

<sup>205</sup> Sacks 1986, p. 72.

important privileges of the great nobles were abolished, and estate possession of the local exercise of generalised rule was considerably restricted. Wealth and unequal possession of land were criticised, and even the authority of husbands over their wives. A few people also saw the doctrine of sin as no longer beyond challenge.

In 1660, the monarchy, the House of Lords and the rule of the bishops were restored. The king no longer enjoyed a fiscal power derived from feudal tenures, nor did he have prerogative courts, but the personal elements of his rule were only slightly curtailed.

In the late seventeenth century, the House of Lords was if anything more powerful than it had been in the time before the Revolution, and in the counties the county gentry put a decisive stop to the rule of the 'new men'. Rule over men and the security of private property were not lastingly undermined, any more than belief in sin.

The structure of power was not revolutionised by the conflicts of the mid-seventeenth century. Yet very much more was at issue in these conflicts than just a structurally incidental departure from the 'normal course' of English political history.

In two respects in particular, the struggles of the revolutionary years had a lasting effect: they changed the conditions of practice for both religious and estate rule.

The 'Puritan revolution' destroyed the basis for political strategies that sought to constrain society to the commands of the 'Saints' by way of generalised power. Along with this disappeared the basis for strategies that aimed to impose political unity and social stability by way of religious unity. The years of revolution saw the emergence of the political preconditions for the privatising of religion. The Church of England became – for clarity's sake, I exaggerate this tendency – an instance for the *legitimisation* of socio-political goals. Religious discourse in England retained its prominence in political conflicts until the very end of the *ancien régime*, a point I shall return to several times below. But after the brief attempt to impose a social order pleasing to God, the relation between politics and religion was fundamentally changed.

The Revolution also changed the preconditions for estate possession of the local exercise of generalised power. For everywhere – even where at the beginning or after years of war the attempt was made to assert local neutrality in relation to the political conflicts – local public spheres were politicised to a

previously unknown extent. As far back as the 1530s, there had been a generalised public sphere in England. It arose in connection with the Reformation, and the early generalisation of religious discourse is a structural feature of the *ancien régime* in England. That this was not simply a literary phenomenon is shown by the diffusion across the land of the 'papist' stereotype. The years of revolution saw the establishment of new stereotypes. There was still talk of 'papists', but many who were formerly insulted simply as scoundrels were now referred to as Roundheads or Cavaliers. This shift in language was not incidental to the practice of local rule, but marked a shift in the local public sphere. This had already come to form a terrain – for the sake of clarity, I exaggerate also in this case – on which local hierarchies and the place of each individual within the hierarchy was open to debate. This local public now developed in such a way that different conceptions of religion and government could also be proposed, more clearly than ever before. To sum this up formulaically: in the years of revolution, the local public sphere was constituted as a political public, even where the 'old order' was defended against encroachment and attack.

As against these two structural changes, both of which we shall examine below in more detail, the immediate effects of the Revolution on the organisation of production and the structures of appropriation remained comparatively slight. There was not even a fundamental transformation of economic policy. The restriction of the personal power of the king, moreover, did not extend to ensuring the coincidence of centralised and generalised monarchical power. Yet this was still very definitely a revolution, as I will go on to explain. It affected the preconditions for the *exercise* of personal rule, and in this measure also the basic structures of the *ancien régime*.

The argument that follows will not go into the course of the conflicts and their immediate social and religious-political contents. Our presentation will be confined to those social conditions, and conditions of rule, that decisively structured the struggle for possession of the means of power – and this only by way of selecting specific examples.

This struggle was determined by the intentions and actions of many individual men. On the basis of their social position, their religious and secular education, their experiences and their expectations, they arrived at specific desires, plans and actions. In the course of the struggle many of them changed their views, either because they had the courage to expect and demand more

far-reaching changes than they had previously thought possible, or else because they came to the view that the correction of one evil would only conjure up new and far more threatening dangers. Faced with the further radicalisation of soldiers and the population, they saw a return to the old order with all the failings they had initially combated as the most desirable solution. For many developments, the behaviour of individuals was of particular importance. The *effect* of these, however, was determined by the views people held of the right order (either the traditional one or the new order they aspired to), by their fear for the maintenance of property and rule or their hope for a better world, but above all by their opportunity to possess the means of power. It is this last aspect in particular that the following structural-analytical argument will focus on.

#### *The struggle to reform monarchical rule*

The outbreak of the English Revolution was provoked by the Scottish nobles, who in 1637 refused to accept the prayer book that Charles I had authorised for Scotland. (The crown had to a degree also provoked their opposition by the reclamation of former church lands.)

In February 1638, a good third of the local clergy and more than a third of the Scottish nobles bound themselves in a covenant with God to defend the proper faith. The secular head of the Scottish church saw this as rebellion. It had to be met with force in order to defend the unity of the church and the religious rule of the king. The king thus turned a movement of opposition against the episcopal church into a rebellion against himself.<sup>206</sup>

Charles I governed at this time without Parliament, and commanded the English nobles to assemble for war along with other soldiers. At the same time the crown ordered individual militia units to prepare for the campaign. This last measure not only contradicted the rule that militias should only be used for local defence, but was also especially risky in political terms, since there was a widespread fear in the country of a 'papist plot' (possibly with the king's blessing) linked with a Spanish invasion.

Nonetheless, the army did assemble, although more than half the members of the gentry who had been summoned sent their apologies, and in many

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<sup>206</sup> Douglas 1964, p. 31.



places the Justices of the Peace, sheriffs and deputy lieutenants met with considerably difficulty in enforcing the king's orders. The City of London also refused the crown a credit that had been demanded, so that the king was forced back almost entirely on 'loans' from courtiers and officials that were to a large extent compulsory.

The English crown thus had difficulties in wielding prerogative power, though for the moment this was not systematically challenged. The campaign, however, already created conditions for the intensification of the government crisis.

On their way north, soldiers destroyed symbols of the politically commanded faith, and many also joined local uprisings against enclosures. It was the crown itself that had created the organisational preconditions for these public demonstrations of criticism of the aim of the war and the policy of the lords, and the campaign also produced an assembly of members of the nobility such as had not taken place for a decade – since the king had dispensed with the advice of Parliament. In other words, while the king had managed to enlist the services of local representatives of his rule for his war against Scotland, along with a further and considerable part of the nobility, this did not mean he could use these armed subjects of all ranks simply as an instrument of royal prerogative. The preparations for the war, which contemporaries described as a 'bishops' war', led to a generalisation of the criticism of the king's practice of rule, since it made known to the participants the wide extent of this criticism. The 'bishops' war' did not yet face the English king with a revolutionary situation, but it created the conditions for this to develop.

Military defeat forced the king to make peace with the Scots. In preparation for a new and more successful campaign, he was forced early in 1640 to summon Parliament. He treated Parliament, however, with consummate folly. Instead of justifying and defending his war aims, the king only asked for money, and although – as recent research has shown – this parliament was in no way fundamentally opposed to him at this time, and the crown could still count in particular on the support of the House of Lords, the king was himself faced with so many petitions from the counties explicitly demanding the 'abolition of abuses' that he dismissed the 'Short Parliament' after three weeks.

In November 1640 a new parliament assembled. (Since it was not formally dissolved until 16 March 1660, this is known as the 'Long Parliament'.) The election of members to the House of Commons was partly contested, but

this did not yet make this Parliament into an oppositional assembly. In the political conditions of 1640, however, the composition of Parliament – which D. Brunton and D.H. Pennington have researched<sup>207</sup> – was less decisive than it would have been at other times. For the policy of ‘thorough’, as the strategies pursued by the king and his Council for the practical implementation of government decrees were described, and subsequently above all the war whose aim many did not share, had led to the rise of a *public* that sought to make Parliament its mouthpiece.

Petitions with hundreds and often thousands of signatures arrived both from London and other parts of the country. Up until then, the Council had sought to dismiss mass petitions of this kind as rebellion.<sup>208</sup> Groups of Londoners, also joined by arrivals from elsewhere, delivered their petitions in person. This amounted in some cases to demonstrations, and at least in one case to armed clashes with the Guard, whom the king had deployed outside Parliament. Demonstrations of this kind were in some cases called by (London) Members of Parliament and priests. But since these demonstrations generally involved the better-off classes, or at least not the very poor,<sup>209</sup> we have to assume that both sides were convinced of the usefulness of this mass presence.

The censorship that had previously been practised against publications critical of the church broke down in practice in autumn 1640. It was formally ended with the abolition of the court of Star Chamber.<sup>210</sup> The number of sermons and agitational addresses that were not only delivered verbally but also published grew rapidly.

Many members who took their place in Parliament, many clerics who had for years been regulated and in cases also persecuted, and not least many of the faithful across the country, saw in the summoning of Parliament the opportunity for reform of the church. For them, freedom of the press and freedom of speech were seen as especially serving this goal. They saw the reform of the church as leading to the abolition of other abuses. For in a secular order pleasing to God, there would automatically be what we would nowadays call

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<sup>207</sup> Brunton and Pennington 1968.

<sup>208</sup> Pearl 1961, p. 229.

<sup>209</sup> Ashley 1980, p. 51; Pearl 1961, pp. 109, 217, 229.

<sup>210</sup> Thomas 1969, p. 13.

a fundamental moralising of public and private life, so that many evils would be done away with, above all the feared danger of papism. They preached untiringly that redemption would rest on faith, and that this would be made manifest in deeds. And since Parliament was itself prepared to attack its tasks with prayers and fasts – the very first decision of the Long Parliament was to proclaim 17 November as a fast day for its members – it could appear right away that Parliament was the proper instance to realise a programme of this kind. All the more so, when it was decided to hold debates on abuse in the church one day each week.<sup>211</sup>

In December, however, the House of Lords declared that no other religion than that officially established was to be tolerated. This led to a petition being brought to Parliament signed by 30,000 Londoners. As had already happened previously with the so-called ‘Root and Branch’ petition, this called for the rule of the bishops to be abolished. In a departure from former legal practice, the petitions of winter 1640–1 were sent directly to Parliament without the consent of the City of London.<sup>212</sup> Mass petitioners of this kind were not completely spontaneous,<sup>213</sup> but the number of petitioners was impressive.

The first structural condition for the emergence and effectiveness of political decisions that we should bear in mind in considering the events of the years following 1640, is this public debate on the church (only sketched here in outline), which *sought to make Parliament the instrument* of a church reform that was desired from below but would be carried out from above. It was against the background of this public sphere that Parliament made its decisions, and by it that these were judged.

The Members of Parliament, on the other hand, sought to *use the public as an instrument of their own policy*. This was also true, moreover, for the upholders of episcopal rule. Some of those who wished to reform the kingdom at this time particularly focused on the abolition of arbitrary taxation, others on the freedom to preach. For most of them, it was indeed a question of rights, liberties and privileges. The Members of Parliament certainly saw themselves as representatives of the kingdom and thus also of the public sphere that had now arisen, but this did not make the Lords ready to abandon the claim – with

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<sup>211</sup> Haller 1955, p. 16.

<sup>212</sup> Pearl 1961, pp. 116, 223.

<sup>213</sup> Pearl 1961, p. 223.

possible individual exceptions – to interpret which demands were useful to the realm. If today's 'revisionist' historians maintain that many peers sought to lead the masses,<sup>214</sup> what they focus on is actually the claim to a power of interpreting the content of public debates. Realisation of this claim, however, was not achievable. For right from the start, the decisions of Parliament also assumed a debate on the *permissible status of the public sphere*, i.e. the right to put Parliament – and also the City of London council – under pressure by mass petitions and demonstrations. Attempts by Parliament to instrumentalise the public for its own ends were countered by opposite attempts to make Parliament an instrument of the public sphere, the 'agent' of popular will, as the 'Grand Remonstrance' some years later was to demand.<sup>215</sup> The fact that a power-stabilising outcome to the political contradictions thereby constituted did not seem automatically assured, is shown by the many warnings of possible radicalisation of the popular masses that particular nobles issued from the start of the public demonstrations.<sup>216</sup>

The changing social character of the Revolution – in the thesis to be put forward here – was determined in the first place by the defence and loss of this power of interpreting the contents of the public sphere. This development arose from the dynamics of public communication in word, text and physical presence, but at the same time from a shift in the possession of power. The holders of privilege might seek to engage the means of generalised power for their own – differing – purposes, but this was no longer immediately possible due to the broad political-religious public that had come into being in the meantime. To the same extent, those forces that pressed for more far-reaching reform in Parliament could – until almost the end of the decade – use public debate as an argument in favour of their own demands.

What was up for reform above all was the practice of monarchical rule, and especially ecclesiastical rule. Within ten months after its opening, the Long Parliament carried through a *partial constitutionalisation of monarchical power*: from now on Parliament had to be summoned at least every three years, making it an *institution* of monarchical rule. Parliament was not to be dismissed without the agreement of its members (which is why it continued formally

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<sup>214</sup> Cf. in particular Farnell 1972, pp. 85–6.

<sup>215</sup> Cited after Morton (ed.) 1975, p. 19.

<sup>216</sup> For a summary of this, cf. Dow 1985, p. 5.

in being through all the changes until 16 March 1660). The most important instruments of a practice of rule that had offered the possibility of difference between generalised estate interests and royal practice – the courts of Star Chamber and High Commission – were abolished. Parliamentary participation in the use of the king's fiscal power was formally confirmed. All these laws received the assent of the king. Although he evidently accepted them only under pressure and out of tactical considerations, they remained in force after 1660.

The constitutional reform that was accomplished in this way – subsequently described as 'gentry constitutionalism' – left the king with a large part of his prerogative power. The personal character of monarchical rule was not abolished but confirmed. This was done in particular by the way that all the mistakes of 'thorough' were blamed on the king's advisers, especially Laud and Strafford. The Lords, however, opposed the condemnation of the latter for high treason, for Thomas Wentworth, first Earl of Strafford, had acted throughout on behalf of the king. His condemnation was therefore effected by Act of Parliament (attainder) rather than judicial verdict – i.e. in the form of a political and not a legal decision.

On the day set for the first reading of this bill, many armed men – including very well-to-do and eminent citizens – lined both sides of the route that Members of Parliament took to the chamber. On the following readings, the social composition of these demonstrations changed and the tone of their cries grew sharper. The pressure on the king to consent to the execution of his minister was reinforced by the demand that many thousand had made on Parliament.<sup>217</sup>

But Parliament was not immediately led by this broad public to those further measures for which radical members had called, especially John Pym and Isaak Penington.

In summer 1641, many members of both houses fled London on account of the plague. Others found the sessions of this already exceptionally prolonged Parliament much too extensive. Parliament took a break in September, during which it was represented by a committee of members. It was not the radicalisation of the public sphere nor even the strategy of the radical reformers in Parliament, but the armed insurrection that broke out in Ireland in October

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<sup>217</sup> Pearl 1961, p. 217.

1641, which together with the king's strategies made clear that his consent to the reform laws could not be trusted, creating a new pressure for Parliament to act. The immediate expression of this was in the debates over the Grand Remonstrance that same month. These debates of October 1641 ended the traditional practice of seeking consensus in Parliament. By a bare majority, the power of the king over the military force required to put down the Irish rebellion was made dependent on his consent to parliamentary selection of his advisers and a reform of the church. But a proposal to have the Remonstrance printed, i.e. to turn expressly to the public, was not carried (the balance of forces for this thus being significantly different than for the actual list of demands). This did not however prevent the printing and distribution of the demands that had been made.

The vain attempt of the king to have five radical members of the House of Commons arrested, with a view to putting them on trial for high treason, the rejection of the Grand Remonstrance and the removal of the royal family from London, faced Parliament with the decision, at the beginning of 1642, to organise generalised military power in the kingdom on its own behalf (even if still in the name of the king) or else abandon all plans to reform monarchical rule.

With the decree on the militia of March 1642, Parliament claimed for the first time full legal power for a decision that did not have the consent of the king. The Militia Ordinance was revolutionary law, even if many of those who voted it saw this as no more than an emergency procedure until the king came to his senses. With this decree, the counties were drawn into the dispute between the king and his Parliament for the first time. Until then, most of the rural lords, though aware of the political conflicts going on,<sup>218</sup> saw no need to take sides. Both sides, moreover, still insisted that their goal was the restoration of the 'old law', while at a time of widespread social disturbance, many of the landed nobility, yeomen, large farmers and civic burgesses saw no more pressing task than the maintenance of local peace.

In early summer of 1642, when the crown on the one hand (through the 'commissions of array', an ancient feudal form of organisation of armed force) and Parliament on the other, set about organising local armed force, it was first of all Justices of the Peace, lords lieutenant, deputies lieutenant and sheriffs

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<sup>218</sup> A. Fletcher 1981, *passim*.

who found themselves at a moment of decision, followed soon by large sections of the population. Efforts were frequently made to avoid this by opting for neutrality – in part genuinely, in part just formally – or by individuals obeying instructions from both sides to have money and horses ready. Until the actual outbreak of armed conflict, it was also possible for particular districts to preserve their neutrality.<sup>219</sup>

Local studies indicate that in many places the decision for one side or the other depended principally on whether it was the king's instructions or those of Parliament that first arrived. In other areas (especially in the North), a district took its cue from the attitude of local magnates. That appropriation by way of trade and manufacture formed no obstacle to royalist sympathies has been abundantly shown by recent studies,<sup>220</sup> and the correspondence that Christopher Hill demonstrated between certain agricultural forms of appropriation and dominant political orientations can also be explained by the locally dominant structures of the noble hierarchy. Finally, the early political commitment of Puritans to the Parliamentary cause, which J.S. Morrill has emphasised,<sup>221</sup> should be corrected in that this is only clearly demonstrable after the outbreak of the war.<sup>222</sup>

For the year 1642, the patterns of local factions appear mainly as 'deviations' from models of explanation in strictly social and religious terms. This is readily understandable, in so far as the question at this time was still that of the most suitable way to reform monarchical rule. In a political-strategic decision such as this, all kinds of considerations, customs, and faulty judgments could come into play. As against the customary emphasis in recent research on a number of separate factors in such decision, as well as reference to the unreliability of earlier generalisations, it should not be overlooked here that the larger part of the peerage and higher gentry were royalist, whereas members of the lower gentry and citizens of towns tended rather – if in no way exclusively – to 'defend' the rights of Parliament and wish to see them extended.

There were in addition regional centres of gravity. The North, Wales, and the South-West tended to support the crown, East Anglia, the South-East and

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<sup>219</sup> Morrill 1976, pp. 38–43.

<sup>220</sup> Cf. Brenner 1973, p. 83.

<sup>221</sup> Morrill 1976, p. 50.

<sup>222</sup> Cliffe 1984, p. 236.

the south to support Parliament – in each case with individual exceptions. Above all, however – and the significance of this has all too often been pressed into the background by regional studies – in London a more radical public prevailed against the considerable royalist forces in the City, where Charles I still had full confidence in its leaders in December 1641.<sup>223</sup> With the election of new members to the Common Council, conditions were created in which the demands of London citizens and inhabitants on Parliament could no longer be withstood by the authorities. Whilst this did not make the City authority into an instrument of the people, it was from early summer 1642 an instrument of the policy represented in Parliament.<sup>224</sup>

For the structural analysis of the Revolution, the precise social composition of the opposing factions is perhaps less important than the fact that the king still had considerable support when from early summer 1642 the division of power in the kingdom was challenged by military preparations, and by actual armed conflict from August on. When the king set up his standard in Nottingham on 22 August, moreover, this was also a sign that he was ready to force Parliament to his will by armed force. At all events, the progress of the military struggle in the first years of the Civil War should already give pause for reflection to anyone eager to derive a historical necessity of the Revolution (and thus also its victory) from ‘preconditions’.

In the long run, Parliament had more money at its disposal than the king, and quite likely, on the whole, also more convinced support. But of the sixteen major battles of the first year, the Cavaliers, as the royalists were soon called, won seven, and a different leadership could have made greater military use of these victories than the royalist officers succeeded in doing. It did not seem a certain conclusion in the first years of the war that Parliament would be able to obtain further material resources, and the war was definitely not won in advance in this way for the Parliamentary cause (and thus for ‘historical progress’, however defined).<sup>225</sup>

Victory only became possible because the heads of the Parliamentary side were able to conclude a military and church-policy alliance with the Scots, and because they were finally also ready to engage in more far-reaching political

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<sup>223</sup> Pearl 1961, pp. 129–33, 159.

<sup>224</sup> Pearl 1961, *passim*.

<sup>225</sup> Cf. here Wilson 1962, pp. 80–104.



innovations than the great majority of them had intended at the start of the war.

These innovations made Parliament, which had previously been simply an advisory board, into a government, organising itself to a large extent by way of commissions. They also affected the forms of taxation. Above all, however, they related to the organisation of armed force. In the course of the Civil War this was nationalised, at least incipiently. This, however, meant that armed force (and the civilian forms of securing its recruitment and provision) could not be integrated automatically into the former structure of locally generalised estate rule under the leading families of the nobility. The preconditions for the *possibility* of political developments that ran diametrically counter to the original intentions of the reforming nobility were thus a product of the war, or more precisely, of the fact that the civil war was not decided in advance in favour of those who had access to greater material resources.

Initially, in the first two years of the war, both sides kept as far as possible to the traditional structures of military organisation. As high commander of his army, the king made use of a newly created Council of War, as well as of local administrative personnel who could be guided and supervised by regional 'commissions of array'. Wherever possible, local courts or assemblies were to be involved in these commissions' measures. Until the end of the Second Civil War, it was more or less this form of organisation that remained responsible for the deployment of the king's armed force. This was, at first, quite a strongly centralised structure, as there was a single army under the command of the king, even though it was strongly marked by local conditions (the relation of the commanders of local army divisions to the high command remained unclear), as was also the case with its recruitment and provision. Finance of the royalist army was effected both by local charges and by the loans of certain members of London corporations (if no longer by the City as a whole), not least also by foreign credits.

In comparison with that of the crown, the armed force of Parliament was initially far less centralised, and characterised by a dual military structure: the militias that were established and supplied locally remained under the local command of lords lieutenant and their deputies, for the selection of which Parliament still held in 1642 to the traditional practice of appointing peers to the lord lieutenancies and members of leading gentry families as

their deputies.<sup>226</sup> Parliament itself took on the high command. But Parliament only had directly under its control an army of some 10,000 men. Along with the widespread desire for political neutrality, and the consequent refusal to deploy local militia outside its county of origin, this sharp organisational division meant a significant limitation on the military power of Parliament. The attempt was made to overcome the prevailing military localism by uniting the militia of several counties. Only one of these, however, functioned with any real success: the Eastern Association.

For the financing of the army, Parliament initially resorted mainly to loans. Merchants were 'invited' to continue paying the duties of tonnage and poundage, which had previously been vigorously opposed, and the counties were required to donate money or precious metal. Instead of having to support the parliamentary army, however, the counties sought to keep money in London for the equipment of the armed men they provided. In the spring of 1643, Parliament found itself constrained to introduce a new financing system. Everyone whose income was higher than that of a day-labourer was to pay a weekly charge, well-off landowners were forced to make loans, and the lands of royalists were confiscated and sold. This taxation was revolutionary in so far as it was raised without the consent of the king. It was higher than the previously practised forms of taxation, and signified an attack on the traditional forms of rule in the counties. County Committees were established to enforce it, and these were not necessarily staffed by men who had previously been seen as worthy of office in the locality.

The armed force that Parliament organised was neither a people's army, nor indeed an army of those God-fearing men who demanded the reform of the kingdom in their sermons and petitions. It was, rather, a military organisation established by a particular group of lords in a largely traditional manner, in order to accomplish *their* political goals. As a consequence, many soldiers were forcibly conscripted – as on previous occasions – and many of these likewise tried to desert. The remainder often behaved in so ill-disciplined a fashion that the population had good reason to fear them even in regions which were well-disposed towards Parliament.

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<sup>226</sup> Pennington 1968, pp. 65–6.

This situation was not immediately changed in fundamentals by the *reform of the parliamentary armed forces* carried out in 1645, as Mark Kishlansky showed in a pioneering work.<sup>227</sup> The New Model Army was at first neither politically radical nor even politically unified. It was thus not the arm of the radicals in Parliament. Nor did the New Model Army abolish right away the former practice of generalised estate rule over armed force.

At the end of 1644, the military situation gave many religious-minded men the occasion to consider how they could make the parliamentary cause more appealing to God, and what practical measures they could take to participate fully in his mercy. In so far as it bore on general political structures, this self-criticism of the politically active pious rulers rapidly focused on those aspects of personal rule that had formerly made it possible and customary for individual honour and profit to be drawn from the possession of office, while promotion of the 'common weal' came second at best. In November 1644, a commission was set up to investigate what part of the profits of office should still be generally retained,<sup>228</sup> and in December the House of Commons passed the so-called 'self-denying ordinance', which required members of both Houses to voluntarily renounce public office, both civilian and military. In this way – said Cromwell in Parliament – none of our enemies could say that members of either House had no interest in a swift end to the war, because it gave them opportunities to use their offices for individual advance.

The view that the implementation of this decision would lead to a very considerable depersonalisation of the structures of rule was formulated by the London captain of militia Thomas Juxon, when he maintained that for the first time now, the Members of Parliament had behaved as the Commons of England, representatives of the *salus populi*.<sup>229</sup> Yet the Lords were unwilling to go that far in their efforts to win God's mercy and supply no arguments to the enemy. They would thereby have renounced the final remnants of their personal military power. If this power no longer amounted to a legally fixed possession, the great nobles still maintained their traditionally established right to positions of command. The House of Lords rejected the proposed legislation, proposing instead that members of both Houses should simply

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<sup>227</sup> Kishlansky 1979.

<sup>228</sup> Kishlansky 1979, p. 30.

<sup>229</sup> Ibid.

give up their civilian offices. In April 1645, this position – marking as it did the start of a deterioration in the relations between the two Houses of parliament, the appearance of *estate-structured conflict* among the supporters of the parliamentary cause – could no longer continue. Together with a centralisation of military power – not complete, but clearly strengthened in relation to previous structures – new high commanders were appointed by Parliament, after the precautionary dismissal of the previous ones. The selection of personnel again led to a certain controversy between the two Houses, in which connection – according to Kishlansky<sup>230</sup> – the amendments of the House of Lords to the Commons proposal were a function partly of patronage interests, partly of military considerations, and also – to a degree that is impossible to precisely measure – of religious orientations. Military strategy would now be determined by a committee of both kingdoms, in which the generals who had just been dismissed (or retired), the earls of Essex and Manchester, remained members. Above all, however, the New Model Army remained an instrument of Parliament. Its military efficacy – increased by the reform and by the policy of the two new commanders – finally brought victory in the First Civil War.

In 1646, after putting himself in the hands of the Scots, the king signed a declaration of capitulation. Parliament, having waged war against the king, was now faced with the situation of having to settle the peace. In the meantime the political situation had greatly changed: in both London and the regions conflict had arisen over the possession of local rule, many Puritans had been become radicalised in their religious and socio-political views, and new religious groups had emerged. Demands circulated among the public that went far beyond those that Parliament had put to the king at the start of the civil war. In certain places there had been social disturbances.

#### *The revolutionary attack on generalised estate rule*

The Revolution of 1648–9 grew out of the attempt of a considerable section of the lords to persuade the king to make peace, so that by abandoning earlier demands they could jointly defend their rule, now endangered by politically radicalised forces, social climbers, and substantial social unrest. To prevent this and create instead a more just world was the goal of the revolutionaries, who – in varying and somewhat contrary demands – aimed at

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<sup>230</sup> Kishlansky 1983, pp. 43–4.

the introduction of a representative constitution with general elections, the abolition of the monarchy, reform of the judicial system, the establishment of a better order in the church (if not the actual preparation of the realm of God on earth), and the abolition or attenuation of former social injustices. If this actually led to revolution, a precondition for this was the formation of a radical political and religious public, and especially the fact that large parts of both the military and administrative power and the press were *de facto* in the hands of 'radicals'. It was against what they saw as a dangerous situation that had arisen, that a parliamentary majority that had become or remained 'conservative' made their proposals to the king.

Important new features of the situation were changes in the army and the form of regional administration. For four years, soldiers had been billeted on the population, requisitioning provisions and demanding horses, and even in localities under parliamentary control there had been attacks on civilians, not to mention the costs of this plague, which the County Committees met by drastic measures. If we can trust the words of their opponents, these committees were made up of outsiders who failed to pay due respect to the old-established families of the local nobility. They even included a number of artisans – on the Isle of Wight for example a hawker, an apothecary, a baker and two farmers – as well as others who were in no way members of the ruling estates.<sup>231</sup> On the whole, the committees were run by men with a certain level of wealth and education. But there was certainly a clear tendency for the former restrictive estate selection for office in the local administrations to be at least widened to a certain degree, if not completely abolished.

When Parliament decided to disband the army and send a part of it to Ireland, to put down the Catholic rebellion there and prevent a possible alliance with the king, this corresponded with the demands of many petitions that had been received from London and the regions. When peace proposals were put to the king, providing for the immediate abolition of the County Committees once these were accepted, this followed the wishes of many lords who had until recently supported the parliamentary cause.<sup>232</sup>

The extent to which the political situation had changed is shown by the local defence forces in Somerset – ultimately under the control of the local

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<sup>231</sup> Oglander, cited after Pennington 1968, p. 73.

<sup>232</sup> Kishlansky 1979, p. 147.

sheriff – who tried to imprison marauding soldiers who crossed the county on their way to Ireland. In some districts, soldiers also laid siege to the County Committees, demanding payment of their outstanding wages.<sup>233</sup>

The army opposed demobilisation without the settlement of arrears of pay going back at least a year, and without arrangements that would guarantee the fulfilment of demands previously raised. Many members of the County Committees were radicalised when threatened with the loss of office.

Mark Kishlansky has ascribed the cause of political radicalisation in the first place to the decision taken by Parliament to disband the army, with no concern for the material interests of the soldiers, and secondly also to the unwillingness of soldiers to be sent to Ireland.

The Levellers above all maintained that it would be

an unlawful war, a cruel and bloody work to go destroy to the Irish Natives for their Consciences, and to drive them from their proper natural and native rights.<sup>234</sup>

Kishlansky's line of argument does not go far enough. He certainly shows that the politicisation of the army took place later, and the agitational success of the Levellers among the soldiers was less, than had long been supposed by historians; that material interest formed the basis of the (limited) political unity of the army and a precondition for its development into a factor of political power. But even those soldiers pressed into the army must have heard the political rhetoric that was developed to justify their bloody work. If a declaration of 1647 stated that they were not a

mere mercenary Army, hired to serve any Arbitrary power of a State: but called forth by several Declarations of Parliament, to the defence of our owne and the peoples just rights and liberties,<sup>235</sup>

this certainly formulates a political opinion that only became widespread as a result of the specific developments of that year. This does not mean, however, that it did not already have a basis in earlier experiences.

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<sup>233</sup> Underdown 1971, pp. 77–8.

<sup>234</sup> Attributed to Walwyn, cited after Morton (ed.) 1975, p. 65.

<sup>235</sup> Morton (ed.) 1975, p. 38.

The organisation of resistance in the army began, moreover, in the cavalry, which, unlike the infantry, was almost entirely manned by volunteers, with a somewhat higher level of education than the compulsorily enlisted soldiers.

Early in 1647, the cavalry regiments commanded by Cromwell elected 'agents'. The Levellers, supporters of a radical political tendency that at the time of its greatest influence had a regular organisation with formalised rules and membership dues, drew up a petition to the Commons. This was signed by

Many thousands, earnestly desiring the Glory of God, the freedome of the Common-Wealth and the peace of all men.<sup>236</sup>

Even before this petition was officially submitted to Parliament, the majority of Members expressed their opposition to the demands it raised, refused further petitions and threatened to punish the objectors for disturbing the peace.<sup>237</sup> People who had just begun to insist on their civil rights were thus *refused access to the public sphere*. March 1647 saw the start of an open campaign for public support. Parliament reacted not just with bans and the threat of punishment, but with the (difficult) procurement of a credit from London merchants for the purpose of paying arrears of at least six weeks, and above all the attempt to persuade the king to accept its demands. In the army, however, there was organisation of resistance – which Parliament branded as rebellion. In Oxford, too, a printing press was established for the purpose of making the demands of the soldiers known to the people.<sup>238</sup> It was no longer Parliament they were addressing (the delegation Parliament sent to negotiate had to withdraw empty-handed), but rather a broad public that was becoming revolutionary.

In this public conflict with the established forms of rule in the kingdom, the agitators in the army, the Levellers who were especially active in London, and the many new (often chiliastic) religious groups that objected to any kind of political regulation of belief, all gathered increasing strength.

Parliament reacted with a stress on the traditional privilege that its debates should not be put under pressure, and thus *refused the public any influence on its discussions*. From the standpoint of the lords' traditional privileges, the

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<sup>236</sup> Morton (ed.) 1975, p. 90.

<sup>237</sup> Kishlansky 1983, p. 160.

<sup>238</sup> Morton (ed.) 1975, p. 34.

demand (raised in particular by the Levellers) that the influence of the public should be institutionalised meant genuine rebellion – despite the fact that for centuries Parliament had acted on the basis of petitions, and in the first years of the Revolution certain members had themselves promoted the drafting of petitions. The question at issue, as Kishlansky has shown, was not whether there should be a complete end to petitions, but rather the privilege of Parliament to select from the public sphere those aspects that coincided with the views of the majority in the House. Besides bans and sporadic offers to negotiate, the representatives of the previous ‘good order’ had little to oppose to the increasingly revolutionary public both within and without the army. When in June the ‘glorious decision’ of the army not to let itself be disbanded before the soldiers’ demands were met was accepted in the regiments by acclamation, this meant that the practical possession of armed force would be turned to political account. The army now acted in fact as a power potential in its own right.

To implement this strategy an army council was created, by expanding the council of war of the senior officers that already existed by two junior officers and two private soldiers from each regiment.

When the parliamentary majority called the London militia to arms, this attempt to put the army back under the control of Parliament was halted by its advance on London.

In June, a junior officer – Joyce – and the soldiers under his command made the king a prisoner of the army, and the political demands formulated by its representatives now grew more far-reaching. In this first phase of politicisation of the army, political dominance lay with private soldiers, junior officers and a few radical higher officers. Generals Fairfax and Cromwell, together with the senior officers known as ‘grandees’, now came to represent in their political milieu the demands of the rank and file. They also accepted the imprisonment of the king. In this way, they retained at least formal power of command over the *de facto* holders of armed force. By their struggle for the power to interpret the demands put forward by the army, and by use of the armed force at their disposal, they further reinforced and expanded their military command – and in the current situation, their political command as well. The struggle as to the contents of the army’s demands was waged in the so-called Putney debates, the struggle over military command in the draconian suppression of the Ware mutiny. This arose because the army council had



suppressed a resolution from the Levellers demanding universal suffrage (for every man except servants and beggars), and because it was also supposed that the 'grande'es' had had a hand in the king's escape. With the suppression of this mutiny, the supremacy of the military command over the dynamic of public debate among the soldiers was decisively manifest. It was no accident that after this incident the influence of the Levellers in the army fell. This equally meant a decline in the possibility of a revolution that was genuinely determined by the people, or even a social revolution. A precondition for revolution is certainly a revolutionary public, but revolutions are decided not by argument, but by the effective threat or actual use of force. In 1647 an effective threat of force did indeed exist within the army, in both directions. In the later months of the year, therefore, a kind of political compromise was arrived at: for the sake of the ability of the army to act politically, the radical agitators accepted the command of the grande'es, and these enforced military discipline by taking on some of the Levellers' demands – in particular the end of negotiations with the king.

In this way, there arose a moderately radical political position of the army (though it contained neither a programme for specific regulation of the church, nor even – as was often supposed – the demand for complete freedom of conscience). In 1648 the so-called Second Civil War settled the rival claims for power by military means. Its history, as Winston Churchill pertinently wrote, was 'short and simple'. The king, the Lords, the Commons, members of the gentry and merchants, City and country, bishops and Presbyterians, the Scottish army, the population of Wales and the navy, all now fought against the New Model Army. And this army defeated their combined forces.<sup>239</sup>

To summarise these events would mean introducing many different elements – anti-Puritan popular uprisings and resistance,<sup>240</sup> petitions and mass demonstrations against the County Committees,<sup>241</sup> the pressure of London merchants for a reconciliation with the king, the mutinies in the navy and the struggles of the Scottish army that took the field on the king's side, as well as the public justifications that the parliamentary forces distributed across the country.<sup>242</sup> All this we must leave aside here.

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<sup>239</sup> Churchill 1956, Volume 2, pp. 218–19.

<sup>240</sup> Underdown 1971, p. 91.

<sup>241</sup> Underdown 1971, 97–8.

<sup>242</sup> Underdown 1971, p. 107.

After the military victory over the royalist forces and all who had risen up against the army and the County Committees, in August 1648 Parliament began peace negotiations with the king. It demanded command over the militia for a period of twenty years, the participation of Parliament in the selection of the king's advisers and a Presbyterian church order. The parliamentary majority – including many Members who could earlier have been counted among the Independents – were prepared to accept the few concessions that the king finally agreed, despite massive protest and a major written complaint from the army, as the basis for a reconciliation with the monarch. This already shows how much more was at stake now than the extent of monarchical power. For the same reasons that led to the more successful attempt of 1660, the parliamentary majority voted to restore the monarchy on 4 December 1648 – ‘eleven years too early’.<sup>243</sup>

This development was prevented two days later, when the army took civil power into its control. Parliament remained in existence, but politically it was ‘purged’ of those members who supported reconciliation with the king. ‘Pride’s purge’, as the imprisonment of a number of MPs by Colonel Pride came to be called, made possible the condemnation and execution of the king. It was the last concession of the moderate forces in Parliament and the grantees to the radical popular movement within the army.

After the execution of the king in January 1649, England became a republic (although even then, many MPs would have preferred the appointment of a new king to the abolition of the monarchy). The House of Lords was abolished, followed in September 1650 by the penal code that since the Elizabethan religious settlement had enforced Sunday attendance in church. But this nearly completed the institutional results of the Revolution of 1648–9. There was no more mention of the Levellers’ demands for a democratisation of estate rule. Instead of this, the radical leaders of the Levellers were imprisoned, and a mutiny by radical regiments in May 1649 was violently put down. *The army thus became once more an instrument of politics.*

The specific form of estate rule this instrument was now to defend, however, was not yet decided. The following eleven years until the *formal* restoration of the monarchy – for in practice, a far-reaching personal possession of centralised power was re-introduced already under the Protectorate – were

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<sup>243</sup> Underdown 1971, p. 139.

therefore marked by conflicts over political supremacy, or more accurately, over the structure of power-holding within the ruling estates.

There continued to be demands for the abolition of estate privilege. But with the defeat of the 1649 mutinies, the possibility – however weak – of implementing social-revolutionary or even republican demands was finally removed.<sup>244</sup> From now on, all those seeking far-reaching change were forced back again to arguments and forms of expression that were treated as ‘rebellion’ according to traditional practice. The religious radicals, and in particular champions of a ‘fifth monarchy’ (that of the Lord Jesus Christ, which was to redeem the previous four sinful periods of rule) could still have a certain influence. For, in the seventeenth century, the possible scope of religious arguments was still substantially greater than that of political and social-critical ones. But even hopes for the coming of the Kingdom of God on earth could not prevail in the long run against more immediate ruling interests. No more was this possible for those forms of communal possession of land that the ‘true’ Levellers (better known as the Diggers) began to put into practice in a number of small communes after 1649. In 1651 these experiments were forcibly ended.

The republican, social-revolutionary and chiliastic popular movements competed with one another in their aims, and did not provide any basis for continuing the Revolution. They did, however, present a provocation to the present holders of power, and, to this extent, they also influenced the conflicts over its distribution.<sup>245</sup> Nonetheless, the political struggles during the years that were later described as the Interregnum were essentially an affair between ‘gentlemen’. The political constellations in these changed: especially between the ‘new forces’ in the county administrations and the army commanders. The political dominance of the latter peaked in 1655 when ‘major-generals’ were introduced as local governors with both military and civilian responsibilities (similar to the French *intendants*). This maximal centralisation of political power – for the major-generals were executors of a central government that was controlled (if not completely dominated) by the military – meant a still more far-reaching attack on the generalised estate rule of the English nobles than had already been institutionalised in the County Committees. Obstruction and open resistance quickly undermined the basis

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<sup>244</sup> Cf. also Woolrych 1983, p. 14.

<sup>245</sup> Cf. also Dow 1985.

of this centralised power. This could happen because the government was dependent on the support of the ruling estates for its foreign policy – based on religion and trade and prosecuted by armed force. The abolition of the major-generals in 1657 marked Oliver Cromwell's attempt at a new political alliance. The personal rule with which the Protectorate had invested him had its foundation in his possession of military power. For its practice, however – just like the personal power that the king had possessed – this depended on the collaboration of a large proportion of the members of the ruling estates. Cromwell did indeed manage to find among these a supporting group for his political strategy: the men historians nowadays refer to as the 'new Cromwellians'. The request made to Cromwell in 1657 that he should be crowned king illustrates the content of this; though Cromwell's refusal indicates how he was well aware that acceptance would lose him the support of the army and thus an indispensable basis for his rule.

The personal rule that the Lord Protector possessed was on the one hand institutionally reduced in comparison with that of the executed king, while on the other hand the presence of a standing army immensely expanded it. Exercise of this rule, however, demanded the collaboration of 'gentlemen' – as otherwise neither the financing nor the authority of the new structures of office would be achievable. If the Protectorate government could maintain itself even though many of the leading noble families refused their collaboration or were excluded from it, this depended on the stabilisation of this specific form of government by military force (which had not been available to the king in the same degree). When this stabilising factor of the Protectorate disappeared with the death of Oliver Cromwell, as his son Richard (designated by his father as successor) had no political support in the army, the structural preconditions for the specific government form of the Protectorate also broke down. Likewise did those for the political dominance of the 'new men' in local administration and in Parliament.

The different forms of government of the year 1659 – the dissolution of Parliament on 22 April; the flight of Richard Cromwell; the re-introduction of the so-called Rump Parliament of 1648 and the end of the Protectorate on 7 May, the military dismissal of the Rump Parliament on 26 December – were all stages in this process of decay. Because the combination of political repression and political disillusion had in the meantime deprived the regiments of their political character, there was no longer any basis for army unity, no matter

how tense. When the military commanders found themselves in different political camps in January 1660, they could use the soldiers under their command for competing political aims. General Monk was the most successful. He led the divisions under his command into London and summoned once more the Long Parliament 'purged' in 1648. This made the restoration of the monarchy certain. In London, the bells of all churches rang out the same evening, and the bonfires that were lit in the streets cast a glow over the city.<sup>246</sup>

On 8 May 1660, Charles II was proclaimed king of England by a newly elected Parliament.

## c.2. *Results of the Revolution*

### *Certainly a revolution, but not the end of an era*

In his well-known presentation of England's social and economic history from 1530 to 1780, Christopher Hill treats the decade of the 1640s as 'the end of medieval England'.<sup>247</sup> Old institutions were abolished, above all the 'royal bureaucracy'.<sup>248</sup> This supposedly introduced a change in economic structure. In place of an 'economic reform the basis of which were the monopoly companies', Hill saw the 'complete integration of English trade on the basis of a national monopoly, in which the state took on a leading role'.<sup>249</sup> (The former monopoly companies were in no way completely abolished, but rather reached their apogee in the eighteenth century, especially the East India Company; but Hill leaves this out of the equation, as he does the continuance of tithes.) For Hill, the English Revolution really did do away with the 'feudal system'. Yet even so, this did not mean for him the immediate transition to capitalism. What arose instead was, rather, a kind of capitalism '*in spe*'. For 'the political and legal conditions for further development had been created'.<sup>250</sup>

Hill's most important evidence for this thesis is the Navigation Acts. It is incontestable that these promoted a change in the economic system of the *ancien régime*, yet the causal connection that Hill takes for granted between these new regulations and the struggles to possess the means of rule is indeed

<sup>246</sup> Woolrych 1983, p. 46.

<sup>247</sup> Hill 1969, p. 135 & passim.

<sup>248</sup> Hill 1969, p. 105.

<sup>249</sup> Hill 1975, p. 126.

<sup>250</sup> Hill 1975, p. 181.

open to challenge. The Navigation Acts can much more readily be interpreted as a result of the Peace of Westphalia. For English merchants who had profited throughout the wars of religion on the Continent by the neutrality of their own dynasty found themselves exposed after 1648 to a ruinous Dutch competition. It can hardly be convincingly argued that no measures could have been taken against this state of affairs without the Revolution, as many decisions had already been taken in support of trading interests. It must be granted to Hill that the application of the Navigation Acts, in so far as this was successful (one should not have too exaggerated an idea of this) would not have been possible without the navy, and this was undoubtedly a product of Parliament's struggle with the king. For the navy, when it was properly used militarily in the second half of the 1640s, and expanded further as a result, served in particular to prevent the intervention of foreign powers in support of Charles I and subsequently his son, who was already recognised by the Scots as Charles II. Hans-Christoph Junge has shown<sup>251</sup> how London merchants of this time took a pressing interest in the expansion of the navy, especially because they were able to make immediate use of it. The merchants of the Colonial Interloping Trade, however, only used the opportunities it presented to obtain advantages vis-à-vis earlier leading trading circles in the City. Such competitive struggles between different trading interests cannot be immediately interpreted as a victory of economic 'progressives' against representatives of 'outdated' economic structures. It should finally be borne in mind that the 'national trading interest' emphasised by Hill was quite evidently not strong enough to keep the navy to the size it had reached in the civil war (i.e. for purposes that were not immediately those of trade policy). Already during the Interregnum, part of the navy was decommissioned for fiscal reasons.<sup>252</sup> If, after the Restoration, the fleet was not further reduced, unlike the army, this is far more readily attributable to the naval mutiny against the rule of the army command (hence in favour of the monarchy) than to any 'national trading interest'. Towards the end of the 1660s, moreover, the crown had to abandon to a large extent the preservation of the fleet, as the plague and the Great Fire of London made its financing and manning difficult. The profits expected from the deployment

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<sup>251</sup> Junge 1980, pp. 70–1.

<sup>252</sup> Junge 1980, pp. 326–7.

of naval forces in battle, moreover, failed to materialise.<sup>253</sup> Overly one-sided economic interpretations of the English Revolution are also faulted by the fact that Cromwell was ready to make a rapid peace with Holland founded on religious policy, despite conflicting mercantile interests. The so-called Grand Design, the quest for colonial conquests, served fiscal purposes above all. It, too, cannot simply be attributed to the victory of new social forces.

There was in England of the 1640s simply no politically decisive supporting group for the economic interest that was in the capitalist sense progressive, perhaps even 'national', and that the Revolution allegedly helped to prevail. In this connection, it is impossible to take seriously the claim that the twenty-eight economic policy demands that the City of London presented to Parliament in 1640 were substantially different from those formulated in 1637.<sup>254</sup> In the meantime, however, struggles had taken place that fundamentally altered the composition of the corporation and secured the support of London for the parliamentary cause. The 'new men' on the Common Council did indeed criticise the special privileges of the monopoly companies, but they did not demand their complete dissolution, let alone freedom for all trading and commercial activity.<sup>255</sup> Just like their predecessors, they wished to maintain the traditional rights and privileges of the aldermen, vis-à-vis not just the government, but also the City population.

If our analysis here is less impressed by the changes in the organisational forms of trade that were demanded and realised, there is one key structural precondition (among others still to be considered) for the early breakthrough of capitalism in England that has special importance: the fact that most peasants here could not assert their property in the land they tilled with the sanction of generalised force. During the English Revolution, feudal tenures were abolished in 1646 along with the court of Warde, i.e. those fiscal burdens that had been imposed on the property of the lords for the benefit of the crown. A corresponding transformation of copyhold tenures, however, was not accomplished. This form of limited possession of the means of production was thus *not* changed in the course of the Revolution. But whilst the abolition of feudal tenures held by vassals of the crown was only of secondary importance

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<sup>253</sup> Jones 1978, p. 101.

<sup>254</sup> Pearl 1961, p. 281.

<sup>255</sup> Pearl 1961, pp. 283–4.

for the capitalisation of the rural economy, since it now represented no more than a specific form of taxation on hereditary landed property, the legal form of copyhold immensely facilitated the transition to capitalist farming. This means however that preconditions for the capitalisation of agricultural production came into being long before the revolutionary conflicts of the mid-seventeenth century. Emphasis on this point does not mean denying those structural effects of the Revolution that we shall deal with below. But their relevance to the development of capitalist forms of production and appropriation has to be assessed as rather small, if they are judged on the basis of a theory of economic transformation in which the social form of production is central, and not just the development of trade. The revolutionary events of 1640–60 had their effects on the social forms of production and appropriation. But these effects were not as simple as is suggested by lists of legal regulations, reference to trade wars and the development of postal communication. All these are changes in the structural matrix of the form of commodity production that had long been politically sanctioned in England. The extent of this political sanctioning *contracted* in the wake of the political conflicts. But there was no supporting group for its *abolition*, as we have already shown.

The same goes also for the ‘destruction of the royal bureaucracy’ that Hill emphasises. For whilst Parliament and later the army leadership did indeed find themselves forced to invent new forms of government and thus also replace a part (!) of their former personnel, there still lacked any supporting group for a permanent depersonalisation of power of office that would have a more long-term effect. We shall examine below the successful repulsion of the ‘new men’ by the former influential families. The first point to establish here is the failure of legal reform.

There were certainly a notable number of pamphlets that called for a comprehensive legal reform, and Cromwell himself held the

law as it is now constituted, serves only to maintain the lawyers and to encourage the rich to oppress the poor.<sup>256</sup>

Yet these demands had little effect. The seventeenth century saw a series of notable improvements, especially in penal law, which were not interrupted by the Restoration. But there was no political basis for a reform that would meet

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<sup>256</sup> Veall 1970, p. 225.



the interests of office-holders – from prison governors through Justices of the Peace to the judges in the royal court of Chancery.<sup>257</sup> The actual reform was limited to improvements in the legal practice of the *ancien régime*, i.e. a corrective to personal rule in the realm of jurisprudence, but not its abolition.

The smooth course which the Restoration took in the realm of ‘intellectual life’ also shows how there was no supporting group in place even for a scholarly critique of the *ancien régime*’s forms of rule. If Charles I really had ‘alienated’ scholars,<sup>258</sup> the great majority of them were readily integrated into these forms of rule by his son.

Against the assumption that the English Revolution brought about a new era – one that was ‘bourgeois’ in tendency, even if the actual bourgeoisie were missing – we shall start by stressing these continuities. This does not mean an attempt to prioritise the *longue durée* as against the ‘history of events’, nor the rejection on principle of ‘political’ historiography; it is simply an attempt to give these greater precision in connection with a structural analysis of the forms of rule of the English *ancien régime*. In connection with this presentation of the successful maintenance of a long-established possession of rule that had been temporarily shaken by the Revolution, these changes in the ruling structures of the *ancien régime* will now be sketched out. According to the thesis to be developed here, these are partly connected with the revolutionary events of the mid and late seventeenth century. At the same time, this partial transformation of the *ancien régime* is attributable to those *social* changes that led to a new internal structure of the English ruling estates.

#### *Reconstitution of estate possession of locally generalised rule*

The form of government of the Protectorate had its most important social basis in those circles that were called at the time the ‘new men’. They sat on the County Committees, they became major-generals, Members of Parliament, officers and judges. The fact that their interest in maintaining the changed situation, under conditions of persistent social conflict, high taxation and the military engagement in Ireland, Scotland and at sea, was not sufficient to stabilise this form of government, is already made clear in the way that military rule over local administration was again relaxed, a kind of

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<sup>257</sup> Veall 1970, p. 233.

<sup>258</sup> Curtis 1965.

upper house introduced, and the attempt made to resolve the government's financial problems by the risky venture of colonial conquest. For without a reduction in the tax burden, there could not be any long-run toleration of the new forces on the part of the formerly ruling estates, let alone support.

The Restoration ended the rule of the 'new men' and to this extent meant the reintroduction of previous conditions. Local administration became once again the generalised possession of local leading families. Justices of the Peace appointed from their milieu functioned as their representatives. The conclusion that Philip Jenkins reached for Glamorgan in Wales, that 'the justices were simply the official manifestation of the gentry class',<sup>259</sup> can be generalised to England as a whole.

With the disappearance of the 'new men' from the key positions of power that had in part been newly created by the Revolution, there emerged a *defence of local possession of rule against claims of decision by the central government*. It is true that the Revolution had only been possible because in England there had long been a generalised possession of rule, not merely formally but in actual fact. For it was only on this basis that interests, demands and political goals could be experienced and conceived as general ones. The course of the Revolution even strengthened such generalisation in the long term. For in the wake of its conflicts, not only did Puritanism develop into a view of life that laid claim to order the whole kingdom,<sup>260</sup> there also arose the first regular *political factions*. All the same, the Restoration saw the victory of a strongly anti-centralist tendency, and the dominant attitude of loyalists towards the crown, one that marked the first ten years of Charles II's reign, did not prevent its interventions into local affairs being tolerated only to a limited extent. Since the abolition of the Star Chamber, the government lacked even this instance for controlling the Justices of the Peace. From the 1670s, and especially in the reign of James II, these often practised systematic obstruction.<sup>261</sup> Support for the royal house was clearly limited by localism. This already gives an indication of how localism under the Restoration, like so many other things, cannot just be seen as the continuation of a tradition that had been briefly interrupted. There had certainly been earlier interests that were partially oriented

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<sup>259</sup> Jenkins 1983, p. 83.

<sup>260</sup> Collinson 1982, p. 247.

<sup>261</sup> Cf. Western 1972, p. 34 & passim.

to general structures, and the very existence of a Parliament that held sway over the whole kingdom (and not just over particular local estates) inflected political strategies. Yet the localism of the post-Revolutionary era had its base less in the social and cultural particularities of individual counties, than in a political strategy of *anti-centralism* that was widespread among the ruling estates. Autonomy became a more significant issue than it had been before the Revolution.

One of the earliest expressions of this new situation was the conflict over the militia. Charles II had been granted command of the militia, and in 1662 even the right to levy financial contributions for an expanded deployment of the militia in the next three years.<sup>262</sup> The militia commanders were also appointed by the king, just as before the Revolution. He could, if he liked, not only personally nominate the lords lieutenant, but also their deputies (otherwise, these were appointed by the lord lieutenant in question). Yet even the Parliament of the 1660s, with its strongly monarchist orientation, rejected all attempts to make the militia a component of a standing army.<sup>263</sup> At the same time, the 'Cavalier Parliament' limited the actual power of the crown's military representatives in the counties, by reducing the resources available to the militia. (The regulations that had exempted the poorer rural population from militia service were now abolished.) Though the king's authority over the militia was very wide-ranging in formal terms, it was considerably reduced by fiscal measures.

More decisive in the course of time, however, were the political limitations of this aspect of rule. For the local gentry increasingly rejected the deployment of the militia for disciplining their fellows. Although the great majority of the English nobility supported the church-policy strategy of conformism, which Parliament had proposed to the crown, and though the experiences of the revolutionary years had aroused or fuelled a fear of radical (popular) religious movements, the members of the ruling estates maintained in practice a *de facto* toleration towards those of their own number with whom they were personally acquainted.

The question of the suppression of Catholicism reached a political climax in the so-called 'exclusion crisis'. This was brought about by a number of Mem-

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<sup>262</sup> Western 1965, p. 13.

<sup>263</sup> Western 1965, p. 15.

bers of Parliament seeking to exclude James from succession to the throne, as he was known to be friendly to the Catholic cause. The crown then tried to use the militia as the instrument of a particular political orientation. The lords lieutenant, at least those that were not opposed to this,<sup>264</sup> purged the militia of politically unreliable officers, and their deputies rejected recruits on political grounds. By this purging of the militia, Charles II destroyed its organisational basis. For the English militia could only operate as a military force that, while commanded by the king, was established in collaboration with the local ruling estates.<sup>265</sup>

Just as with the question of the king's command over the militia, so the reconstitution of estate power manifested itself as a limitation on the central government's freedom of action in its rule over the church. In 1661, the king had regained possession of this. The far-reaching extent of the Restoration is indeed made clear by the fact that Charles II was able to disappoint the expectations of many Presbyterians<sup>266</sup> that their consent to his ascending the throne would be repaid in his religious policy. The rule of the bishops was re-imposed, not only as an important field of royal patronage, but at the same time a cornerstone of royalist policy in the House of Lords.

Charles II was unyielding on several key decisions of religious policy, especially the question of the succession to the throne of his Catholic brother, and he was in a position at this time to impose his will.<sup>267</sup> On the other hand, he bowed to the resistance of Parliament to an official policy of religious tolerance. In 1662 the crown withdrew a legislative proposal on this question, and in 1663 the king was even prepared to accept the formal exclusion of non-Anglican subjects from all public offices. (Following the Test Act passed at this time, every official now had to swear an oath to follow the Anglican faith.) The estate demand for conformity coincided fully with the claim of local noble families to decide for themselves on the use of force against Non-conformist neighbours. For religious conformism was seen by the politically ruling groups in the decades following the Restoration as the most important guarantee of desirable social and political behaviour. This was the very reason that the first major opposition to the restored monarchy was aroused

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<sup>264</sup> Cf. Western 1972, pp. 51–2.

<sup>265</sup> Western 1972, p. 73.

<sup>266</sup> Cf. here Jones 1978, p. 137.

<sup>267</sup> Cf. McInnes 1982, p. 380 & *passim*.

by the possible succession of a Catholic to the throne. If in their immediate local milieu a certain (political) attitude was already known and familiar, the local ruling families could refrain from enforcing religious conformity in the individual case. The oath continued in the seventeenth century to function as a binding means of rule. Yet, after the Revolution, private belief was scarcely prosecuted any more. It was even tolerated at first that many officials only met the provisions of the Test Act in so far as they received the sacraments of the Anglican rite on their appointment. Precisely because the Anglican faith functioned as a guarantee of social and political stability, public worship was above all a political token.<sup>268</sup> Only in 1711 was the legal attempt made to forbid office-holders from a purely formal conformism.

Through their representatives in both Houses of Parliament, the ruling estates managed to put through a rigorous religious policy. The principal reason for the failure of James II was that he was in no way prepared to meet this requirement. Moreover, the most important basis for estate collaboration in the determination of religious practice by authority did not lie in Parliament. For the restoration of episcopacy, along with the possibility this gave of controlling the content of sermons and priests themselves, should not blind us to the fact that *rule over religious practice*, and thus the regulation of good order, had very largely passed with the Restoration into *the generalised possession of the ruling estate*. The higher church court remained abolished, and the lower church courts depended on the Justices of the Peace for the execution of the penalties they imposed. The result of this was that church jurisdiction gradually went into decline, so that public morality fell completely into the control of generalised estate rule. Under these conditions, conformity with the Anglican church meant first and foremost participation in a model of respectability that was sanctioned by authority. In this way, *Church doctrine became virtually incorporated into the estate determination of 'good order'*. Whereas episcopal rule and monarchical power had formed before the Revolution a far-reaching and effective unity, the church of the Restoration era was far more clearly integrated than before into the generalised estate power.

The introduction in 1662 of censorship of books that were judged 'contrary to good life or good manners'<sup>269</sup> corresponded to these developments

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<sup>268</sup> Western 1972, p. 159.

<sup>269</sup> Thomas 1969, pp. 13–29; quotation from p. 13.

at the legal level. For the revolutionary claim of religious radicalism to organise society in such a fashion that it met the wishes of God had already been challenged under the Interregnum and completely lost any social legitimacy with the Restoration. All that remained of the kingdom of God on earth was now 'good custom' defined by the ruling estate – but sanctioned as before by religion.

The power to define the structures of 'good order' shows the double orientation of estate rule under the Restoration. It was directed on one hand against comprehensive regulation claims of any central government, and despite its loyalty it still set limits to the restored personal rule of the king. On the other hand, it sought to maintain a dominant position against new social groups on the rise and against the common people.

The radical popular movements of the revolutionary era had certainly been defeated already under the Protectorate, and for this reason the militia was only rarely called upon to repress popular uprisings in the following decades. There were still Leveller talk and publications in the second half of the seventeenth century, but as a movement, the Levellers had long since failed. It was only the Monmouth rebellion of 1685 that brought a new revolt by the common people, with the militia initially having serious difficulty in mastering the armed peasants. On the whole, however, and despite the long-lasting fear of an uprising by discharged soldiers and officers, the restoration of previous structures of rule could to a large extent be accomplished and maintained without the use of military or criminal sanction. The widespread desire for peaceful conditions certainly made its contribution to this, and so did the repression already carried out under the Protectorate. To this extent, the ruling estates could simply resurrect their long established position of rule over the common people after the years of Revolution and the Protectorate, more or less unscathed.

The restoration of estate rule meant that *the public outside the ruling estates were once more excluded from the processes of political decision*. Not only were the old limitations on suffrage for the House of Commons re-established,<sup>270</sup> but mass petitions to Parliament were forbidden, while any kind of express political utterance against the established authorities was defined as rebellion. This stabilisation of rule was formally sanctioned in 1661 with the passage of a law

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<sup>270</sup> Cannon 1973, p. 20.

under which political criticism could be prosecuted as ‘treason’ against the kingdom. In this way, law was once again made into an *instrument of estate rule with an authoritarian interpretation*.

After attempts at a partial legal reform had been defeated for a while along with the Revolution, influential demands for the universal application and actual upholding of the law were directed above all against royal prerogative power and the private possession of office – this last bearing on members of the ruling estates. The character of law as domination was not denied in this way, and certainly not abolished. At most, it was subjected to religious and moralistic interpretations. The same went for the practice of legislation.

What is particularly relevant for our purpose here is the unconcealed character of strategies of estate rule in relation to the economically and socially advancing urban population. Under the Restoration, the crown could always count on the support of Parliament (especially the House of Lords) for politically controlling the town authorities. In 1661, the decision was made to disarm some towns and demolish their walls.<sup>271</sup> The most important instrument of this policy of control, however, was the enforcement of religious conformity. As early as 1661 – i.e. several years before the general Test Act – it was inscribed in the Corporation Act that all urban office-holders had to publicly disavow the Covenant (and with it any Presbyterian tendencies of faith) and take an oath to renounce political opposition under all circumstances.<sup>272</sup> Along with the re-establishment of the old structures of suffrage and parliamentary constituencies, as well as the changes to town administrations that the crown implemented in the following years, this meant a comprehensive attack on any urban radicalism, whether real or simply feared. As Western has shown,<sup>273</sup> the success of this strategy was considerable but not total. Although known radical office-holders were removed from their positions in many towns (fourteen of them for example in Reading), this did not guarantee that replacements could always be found. It was in the towns above all that the practice arose in the following decades of ‘occasional conformity’, by which – with the tacit support of influential citizens – the religious provisions of the government could be met without disturbing the interest of local rule

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<sup>271</sup> Western 1972, pp. 69–70.

<sup>272</sup> Cf. Tanner 1971, p. 227.

<sup>273</sup> Western 1972, pp. 71–4.

and security.<sup>274</sup> As Western rightly points out, all the disciplinary measures taken against the towns could finally not prevent – in the ‘exclusion crisis’ of the 1680s – the victory of the Whigs in three successive elections that were held under heavy political influence. This electoral success however did not prevent the complete political triumph of the king over the Whigs. He managed this because for those members of the politically dominant estates who first of all demanded the exclusion of a Catholic from succession to the throne, then requested this and eventually even almost prayed for it, the stability of the system of domination overrode any other consideration, no matter how important this might be. The stability of estate rule is shown once again, therefore, in the political defeat of the Whigs. It was this stability that was then ‘preserved’ in the revolution of 1688 – in the view of the Whigs who participated in this.<sup>275</sup>

*Partial depersonalisation of the crown*

In 1649 the King of England, Charles I, was beheaded. It is likely, therefore, that both his successors in the house of Stuart occasionally felt an unpleasant feeling in the back of the neck. But this did not make them well-disposed towards Parliament; quite the contrary. The reigns of the later Stuarts were marked by a political offensive of the crown, which was to a large extent successful. Since Charles II did not want to go on his travels a second time, he struggled to raise a standing army, to control the militia, to politically control town governments and to improve the royal administration. His successor took over all this, developed it further, and – above all after the Monmouth rebellion of 1685 – sought to build up the forcible means of royal rule in such a way as to make the power of the English crown comparable for the first time with that of France.

A policy of this kind became possible because very many members of the ruling estates had come round to support the politics of order after their experiences in the two previous decades, so that for them royal authority was beyond question. They denied any right of resistance, and demanded passive obedience even if royal decrees went against divine commandments.<sup>276</sup> The

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<sup>274</sup> Western 1972, p. 72.

<sup>275</sup> Cf. here Cannon 1973, p. 25.

<sup>276</sup> Dickinson 1977, Chapter 1.



Anglican clergy played an influential role in the theoretical justification of divine right. The linkage of crown and church, which in the 1640s had accelerated the developing crisis, was restored in its full scope in 1660.

The extent of personal power is shown by the way that Charles II was able to triumph over the dominant political and religious tendencies in the so-called 'exclusion crisis'. The crisis arose because leading politicians sought to limit the king's personal power by a religious control. Though they laid no claim to any extensive parliamentary participation in government, and rejected the right of resistance, they did seek guarantees for the 'lawful' practice of royal arbitrariness. In the prevailing conception, these lay in the king's confession of the correct – i.e. Anglican – faith. It was feared therefore that the king's pro-Catholic brother James, if he succeeded to the throne, would follow the instructions of the Catholic church and not those of an Anglican-formed conscience. A considerable part of the 'political nation' thus demanded that the king should exclude his brother from the throne, precisely because they did not consider it possible, in the words of Sir William Pulteney, 'to divide the person of the king from the power of kingship'.<sup>277</sup> Lord Russell's view was exemplary of the champions of 'exclusion'. He was against allowing the accession to the throne and demanding as compensation particular limitations of the prerogative in order to secure an Anglican practice of government: for 'it is very much better for the inner order of the kingdom to have a king with prerogative powers than to have a king deprived of these powers, as in this way lasting resentment and unavoidable conflict will arise'.<sup>278</sup> Parliament demanded that Charles II should change the succession to the throne – an immense encroachment on the dynastic structure of personal rule. This shows that, in the second half of the seventeenth century, a considerable part of the ruling estates (and, in this case, as is also evident in the popular support for the Monmouth rebellion, not only the ruling ones), deemed certain preconditions for the practice of personal sovereignty to be necessary and even indispensable, whether or not they were achievable. To counter this, Charles II first of all tried three times to get a Parliament elected that was favourable to him. He then governed without Parliament, and achieved the succession of his brother. In the first years of his reign, James II was, in many respects, more

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<sup>277</sup> Pulteney, cited after Western 1972, p. 38.

<sup>278</sup> Ibid.

powerful than any English king before him. The 'resolution' of the exclusion crisis meant the victory of the king over the majority in Parliament. Those who upheld the king's position during the crisis described the champions of the majority position insultingly as Whigs.

Political influence, however, is not necessarily a zero-sum game. The expansion of royal prerogative power in the second half of the seventeenth century did not mean a fundamental disempowerment of Parliament. Even the parliament of the first Restoration decade, which was not accidentally described as the 'Cavalier' Parliament, on many particular questions set limits to the personal rule of the king that was basically recognised and seen as necessary. A decisive precondition for such a policy arose from the generalisation of political debate that had arisen in the Revolution years, and which, despite the restoration of generalised estate (and thus in the main locally organised) rule, had still not been suppressed. Even if this was not readily apparent in the first years of the stabilisation policy, nor in the decade after 1689, by the mid-seventeenth century English politics came to be characterised by a system of factions. This development provided a structural precondition – independent of the concrete possession of power by the king – for the de-personalisation of monarchical power. What was specifically involved here was the formation of political conflicts that were characterised by representatives of a particular viewpoint struggling with those of another viewpoint over the policy to be carried out. This had, of course, been the case – occasionally and embryonically – long before the Revolution. But, whereas previous political conflicts had been inevitably structured by competition for influence over the king, after the Revolution this condition was partly dissolved. It is precisely here that we can see *the constitution of a political public sphere*, and, to this extent, the development of forms of political communication in which interests can only hope to win agreement if they can represent themselves in at least some sense as 'general'. This *emergence of structures of a public sphere* is both the social precondition for the rise of political ideologies and the result of it. (Which is why the critique of ideologies – understood as the critique of social-political programmes – finds its first real historical basis with the critique of personal forms of rule.) The fact that, despite the far-reaching restoration of royal prerogative power, this formation of a political public which had been the precondition for the Revolution and had structured its course (at least in so far as it affected the ruling and ascendant estates) could not be completely

abolished, is shown by a further contradiction characteristic of the structure of power at this time: the Whigs and the Tories, as supporters of the different political viewpoints first pejoratively labelled each other, before the labels were adopted by the parties themselves, contended in the 'exclusion crisis' over the modalities of collaboration (!) between royal personal power and generalised estate rule.

The crown took account of these altered structures. During the reigns of the last two Stuart kings, attempts to influence the composition and decisions of Parliament very largely took the place of earlier constitutional conflicts. The increased importance of Parliament was noticeable in the systematic political distribution of pensions and offices. Parliament now actually represented an (estate-limited) public. It had become the institutional expression of a notion of 'good rule', which integrated royal personal rule with generalised estate rule and sought to subject it to this.

That the personal rule of the king, though *restored* after the Revolution, was at the same time *redefined*, is shown among other things by the revision of the penalties for high treason. As early as 1640, Chief Justice Finch was condemned for 'treason against the king as well as *against the kingdom*' (author's emphasis), and moreover with the argument that everything 'whatever is against the whole, is undoubtedly against the head'.<sup>279</sup> An offence of state treason that had not been previously defined was thus reinterpreted as an injury to personal obligations towards the king. Eight years later, Charles I was condemned for high treason 'in the name of the people of England', and under the Restoration, a broad – state-oriented – interpretation of treasonable behaviour remained with the introduction of 'rebellious speech'.

Although the king still individually possessed the means of centralised power, he was now far more clearly than before appealed to as the representative of generalised estate interests. This however signalled, unnoticed by most politically active contemporaries, new conditions for the development of monarchical rule.

It was something else that was more immediately apparent: the enthusiastic acceptance of what a contemporary critic called 'the bells and tinsel, the outward pomp and gilding' of monarchy.<sup>280</sup> The court formed once more

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<sup>279</sup> Cited after Hill 1975, p. 288.

<sup>280</sup> Trimmer, cited after Western 1972, p. 37.

the centre of politics, a source of wealth and, above all, of status. Charles II promoted the arts, and both post-revolutionary Stuart kings promoted their courtiers. It is true that the loss of feudal revenues, in particular wardships, removed a considerable part of their power of patronage, but this was made up for by pensions and the granting of newly created offices, not least in the army. The material participation of a section of the dominant estates (albeit a small section) in centralised appropriation rose after the Revolution by way of pensions, offices, and (high) interest on loans which was now paid more regularly than previously.<sup>281</sup>

This *material – and thus, at the same time, the political – consolidation of the Restoration* was finally stabilised by the profits of foreign trade in the 1680s. After the Revolution and the Interregnum, taxes had remained high. The ‘hearth tax’ affected everyone with the exception of the very poor. The same held for the excise, granted for special expenses. Since, however, such duties were chiefly extracted from town-dwellers, the politically dominant landed nobility were to a large extent dispensed from financing the monarchy. For many among the less well-off noble families, indeed, taxes reached a critical level. Typical however is the profit that others drew from the increased financial opportunities of the crown. In 1692, an agricultural tax was introduced that, according to Clay, temporarily abolished (!) the structural privileging of the landed nobility in the system of financing the centralised power.<sup>282</sup> This situation, however, already happened under the new conditions of the English crown’s power politics in foreign affairs, to which we shall return.

Charles II, by renouncing wars, and still more so James II, had built up the financial strength of the crown in a way that only Henry VIII had previously managed by appropriation of the church. This made possible, for the first time, the creation of a *standing army*. Dedicated to ensuring the king’s independence at home, Charles II established his standing army already in 1661 in place of the dissolved army of the Interregnum. In part, soldiers and officers of the New Model Army were re-engaged, but the king’s army was composed above all of those officers and rank and file who had served him in exile and fought against Spain in Flanders, as well as royalists who had remained in England during the Interregnum. There were initially nine regiments, and

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<sup>281</sup> See here Clay 1984, Volume 2, p. 280.

<sup>282</sup> Clay 1984, pp. 267–8.

even in 1684 the army counted only 6,000 men – according to John Childs.<sup>283</sup> But, by 1688, i.e. after the Monmouth rebellion, Angus McInnes assesses its strength as 40,000.<sup>284</sup> Further regiments were raised for special purposes, for deployment in the colonies and in foreign wars, these being paid not from the crown's regular income but from special financial provisions granted by Parliament. During Charles II's reign, three such expansions were decided, each time without any conflict with Parliament.<sup>285</sup> It was not royal command of military force that aroused opposition, but simply the maintenance of a standing army in time of peace.<sup>286</sup>

On closer examination, however, the standing army of the later Stuarts proves to have been only a small policing force that was not very impressive in military terms. Such experience in the field as its officers and men had had was either in Flanders during the exile of the subsequent Charles II, or as mercenaries in foreign armies.<sup>287</sup> In comparison with the New Model Army, the possible military efficiency of the king's regiments was limited not only by the low level of discipline of the soldiers and their lack of training, but above all by the fact that the army had to satisfy demands of patronage. *Gentlemen* could expect in it not only a career, but also considerable income from the provision of recruits and the sale of subordinate positions. For many of them, their sole qualification for these posts was their social origin.

The army of the late Stuarts was a poorly disciplined 'instrument' of royal power with a weak professional structure. In combination with the militia units, however, it was sufficient to combat disturbances across the country. We should also note however that the military resources of the late Stuarts bore no comparison with those of other contemporary European rulers; even those of Charles I had been far superior.

There was also an extension and above all an *improvement in royal administration*. Offices still remained the personal possession of their incumbents, and although there were no formal rules of inheritance in England for the transmission of offices, *de facto* dynasties of office-holders did develop none the less. Since, under the Restoration, the highest government offices were

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<sup>283</sup> Childs 1976, p. 13.

<sup>284</sup> McInnes 1982, p. 385.

<sup>285</sup> McInnes 1982, p. 219.

<sup>286</sup> Cf. *ibid.*, and Schworer 1974, *passim*.

<sup>287</sup> Childs 1976, p. 183.

extraordinarily well endowed, they were also highly prized by the nobility. A systematic development of techniques of administration and control is none the less apparent – above all for the Treasury. In assessing the crown's means of domination, these must be given considerable weight. For, with the aid of the new machinery of government, it became possible to more than balance the loss of income that the crown had suffered with the ending of feudal dues. It was above all the new tax administration and the practice of direct levying of customs duties that helped raise the income of the late Stuart kings to unprecedented levels. The most important power-political foundations of monarchical strength – military resources and financial endowment – were thus considerably increased in the first decades of the Restoration against those of the pre-Revolutionary period.

In other areas, however, the crown had to accept permanent concessions, even if these were in no way decisive. Thus the highest church court, the court of High Commission, was abolished, and in the counties rule over church matters devolved largely on the local nobility (cf. Chapter 3, section b). James II did indeed call the court of High Commission back to life. Yet this revision of a decision that was generally regarded as a lasting achievement of the 1640s signalled a royal coup d'état in religious affairs, an injury to those limitations of personal rule that had been implemented after the Revolution. Though James could enforce this, it strengthened ill-feeling towards him.

The Restoration monarchs did accept a limitation of the Privy Council's penal powers. But this did not fundamentally curtail their personal judicial authority. It was not just that the Privy Council used the prerogative to order imprisonment on the basis of a very broad interpretation of high treason.<sup>288</sup> Helped by their right to appoint and dismiss judges, the kings also intervened directly in ongoing legal cases. Thus in 1686 James II dismissed no less than six judges in a single case (*Godden versus Hales*), in order to reach the verdict he wanted.<sup>289</sup> Since officials continued to be direct servants of the king, and only continued in office 'during his pleasure', the king still had the 'state apparatus' at his disposal.

From 1660 to 1688, the English kings had more power at their command than did their predecessors. This was materially assured because both

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<sup>288</sup> Western 1972, p. 64.

<sup>289</sup> McInnes 1982, p. 383.

Charles II and James II at the start of their respective reigns were granted crown income for their lifetime. In this way, Parliament surrendered its most important political leverage. Politically, the restored and expanded royal supremacy was founded on a fear of renewed unrest and the endangering of estate domination. Within the public sphere, there was indeed criticism of certain forms of rule, but political discourse was dominated by the view that the crown's prerogative was the most important guarantee of a hierarchically well-ordered society and the protection of property. This secular foundation was embedded in a conception of divine right which joined providence with legal succession. Since strict maintenance of succession ruled out any idea of a choice of authority by the people or its representatives, the champions of this view – in the logic of their political self-conception – were held in obedience to their king even when James II proved to be a member of the Catholic church and responded to the demands of Parliament by dissolving it.

The events of 1688–9 shook the pillars of this political discourse. They poured scorn on the combination of estate domination and divine right. The unconditional – at least passive – obedience to the king that was claimed as the basis of political stability came to an end when the Whigs 'invited' William of Orange to defend the Church of England and the freedom of the English people. When William landed with an army and James fled the country, the Tories saw themselves forced for the sake of political stability to come to terms with a king who ruled *de facto*, but not by right. Many of them saw this as a circumstance that could only be given temporary approval, and even outside the 'political nation' restricted by estate, many women and men still retained their allegiance to the departed king and later to the house of Stuart. Conversely, there was neither enthusiasm for the new foreign monarch nor any hope for the dawn of a new age. The events of 1688–9 did not take place in the context of a revolutionary public. There was no revolutionary drama, but rather – initially – nothing more than a political break, which the politically active members of the ruling estates largely sought to master within their own ranks.

Even those who had pursued this break were concerned to conceal its scope. They stressed the continuity of the 'old constitution', and collaborated in maintaining the fiction of legal succession, in so far as the royal rule was conveyed jointly on William III (from the house of Orange) and Mary II (from the house of Stuart).

In fact, what came to an end in 1688 was not just the specific form of monarchy that had been introduced in 1660 out of fear of a new revolution, but also (in Christopher Hill's formulation) the 'monarchy in the traditional sense of the term'.<sup>290</sup> This can be read from the formulation of the Declaration of Rights. William III had to agree to grant titles and lands only with the agreement of Parliament. This narrowed the basis of the courtier economy and changed the structure of court intrigues. The making of foreign policy and the decision over peace and war remained a prerogative of the king; he could still appoint and dismiss ministers and officials, and had the power to veto decisions of Parliament. Yet since 1690 there has not been a year when parliament has not met, and the royal right of veto, which was never formally surrendered, fell into disuse after it was last used by Queen Anne in 1708. From 1689, or, more accurately, 1690, sovereignty no longer lay with the crown, but rather with the crown and the two Houses of Parliament. It is only since this time that Parliament in the singular has existed rather than the various parliaments of English kings. This change was brought about in the first instance by the decision of a majority in Parliament to grant the new king only half of the customary revenues for his lifetime. The remaining half was initially granted only for a period of four years, and it was, moreover, so curtailed that it did not suffice to meet the regular costs of the crown in time of peace, not to mention interest and repayment on credits earlier taken. When these legislative proposals became known, William III is said to have considered renouncing the throne. For it was clear to anyone that a regular deficit on the part of the crown had necessarily to make it pliable to demands of Parliament. It was not so much the Triennial Act of 1694, but rather the financial settlement of 1690, that set future limits to royal prerogative, and also guaranteed the regular summoning of Parliament. As Clayton Roberts has shown, it was not only convinced Whigs who brought about this financial supremacy of Parliament, but also the bulk of the Tories. It may have been that they sought in this way to restrict the power of a king whom they intended to tolerate only until their legitimate lord had returned. In actual fact, they took part in a permanent shift in the system of government. The effect of this shift, however, went even beyond the intentions of the Whigs. With only few exceptions, the

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<sup>290</sup> Hill 1969, p. 144.



representatives of this strategy at the end of the seventeenth century did not aim at a permanent involvement of Parliament in the government of England. They sought a lever to compel the king to dismiss unpopular ministers and agree laws that seemed necessary to them. The summoning of Parliament for a three-year term seemed to them sufficient for this. Scarcely one of the Members of Parliament imagined that advice over policy would be transformed into a seasonally practised professional activity. But this was indeed the result of Parliament's financial supremacy. For after the outbreak of war in 1690, there was a session of Parliament every year. Parliament was also increasingly influential, so that government now required the agreement of its dominant faction. Retrospectively, the change of government of 1688 appears as the catalyst for a change in the centralised power, which now became public. Monarchical power became state power.

Two specific developments allow this structural change to be traced especially well: the decision of 1708 to remove the king's power over the duration of office of judges, so that justice became a state power, and the foundation of the Bank of England in 1694.

The nationalisation of the state debt separated the material basis of centralised power from the person of the king. Already under James II, a reform of the financial administration had been started, which served as precondition for the subsequent development. The aim at this time was to regulate administrative practice by criteria of efficiency. To this end, both procedures and personnel were taken over from the previous tax farmers.<sup>291</sup> In future, promotion was to be subordinated to the goal of administrative rationality, and only allowed on grounds of competence and service. Quite independent of the extent of its actual application, a decision of this kind meant the abolition of the traditional system of handing out offices.

On the basis of these changes, it was no longer necessary to use the individual creditworthiness of office-holders to fix up loans. This dispensed also with the immediate profit that these had drawn from the indebtedness of the crown. From now on, the Treasury would guarantee the security of loans. As a result of this, Parliament for the first time in 1685 – in connection with gathering resources for the defeat of the Monmouth rebellion – gave future tax receipts as security for a public loan. In the war years of subsequent gov-

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<sup>291</sup> Western 1972, p. 101.

ernments, this practice rapidly mushroomed. It formed the basis for the foundation of the national bank, and extended the material basis for the power politics of the state. This now lay no longer in taxes (along with duties), but rather in the creditworthiness of the state, which guaranteed that a part of the tax receipts could be paid out in the form of interest to its creditors. The nationalisation of the state debt, however, made possible a broader regional – and hence also social – distribution of loans, making the crown in this way independent of the particular financiers whose privileged interest conditions it had previously had to meet.<sup>292</sup> The costs of state credit accordingly fell. At the same time, this change in financial technique meant the dissolution of traditional structures of private participation in the appropriation proceeds of centralised power. By de-privatising centralised appropriation, this could more easily be integrated into the increasingly depersonalised central power.

At the turn from the seventeenth to the eighteenth century, the exercise of personal royal power became dependent on the agreement of Parliament. Kings and queens still possessed a great deal of power, but they could wield this power only within the limits that were agreed by Parliament.

This made important elements of the structure of centralised power into a depersonalised and even public power. This was, however, not a 'bourgeois' form of 'state power'. For a long time to come, participation in the exercise of generalised power was still reserved to members of the ruling estates. *Only the replacement of estate structures of privilege by the formalised and depersonalised generality of class rule historically changed the means of generalised power into components of a bourgeois organisation of politics.* Otherwise than in France, the depersonalisation of generalised power in England did not go together with that of the centralised (royal) power. On the contrary, the depersonalisation of monarchical power here actually stabilised the political dominance of the ruling estates and even, in certain respects, expanded it. It took a further hundred years before breaches were struck in the bastions of estate hegemony.

### c.3. *Change in the structure of rule through changes in the structure of the ruling estate*

With the limitation of personal royal rule, the scope for estate possession of the means of generalised power increased. Since, however, the conditions of

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<sup>292</sup> Clay 1984, Volume 2, pp. 280–1.

access to the ruling estates, the preconditions for rise within the estates and the practices of local rule all changed, what is at issue here is not only the expansion of an already long-existing rule that was renewed after the Revolution. For, under conditions of the *ancien-régime* type, a structural change in relations within and between the estates means a change in the system of power and thus also that of society. Some of these changes, such as the rise of national political factions and a higher level of taxation, can be directly attributed to the Revolution. The decisive factors were changed conditions of appropriation, new strategies of ascent, and a change in estate self-conception. Estate rule was thus defined in a new way. The more-or-less oligarchic structure of rule that began to form at the start of the eighteenth century and was to outlast this century by a good while, was already distinct in important structural characteristics from the estate rule that had been restored along with the monarchy in 1660.

This applies equally to the distribution of wealth within the estates, although this was not permanently affected by the events of the Revolution. It is true that many royalists (including a considerable portion of the high nobility) did lose their lands by confiscation, while others were forced to sell some of their possessions in order to meet the political fines that were imposed on them. But, since all confiscations were declared illegal by the Restoration and the possessions in question (though not those regularly sold) had to be handed back, the structure of possession in the first years of the Restoration period turned out to be essentially unchanged from that before the Revolution.

Purchasers of confiscated noble estates and crown lands were Parliament-oriented members of the gentry, wealthy lawyers and regular speculators. The latter often rapidly resold and made off with their profit. Those most affected materially by the Restoration were the 'new men' from the lower gentry, who had acquired lands put up for sale or had been awarded these by the Rump Parliament or by Cromwell as compensation for services rendered.<sup>293</sup>

The Revolution was thus not the material point of departure for the formation or entrenchment of a new estate. Instead of this, the former relations of possession and domination were at first very largely re-established. But, despite the political victory that the ruling estates had won against the politi-

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<sup>293</sup> Cf. Jones 1978, p. 72.

cal newcomers, the maintenance of these relations of possession could not be ensured in the long run.

This was because although access to the means of generalised power formed *one* of the conditions of material reproduction, it could not guarantee a definite material status. Since, however, membership of the ruling estates in England had long been more than anywhere bound up with material status, a *relative* material ascent generally led in the long run to a social ascent as well. A section of the gentry in the late seventeenth and early eighteenth century experienced this in reverse. The relative decline in their material position reduced them to the social status of ‘mere gentlemen’, in other words, much closer to the wealthy townsmen and even to a degree the better-off farmers. This facilitated the success of strategies of selection and defence that were developed and perfected at this time by families of the upper gentry and peers in order to separate themselves socially from non-nobles.

Yet differently from the relative impoverishment of sections of the old *noblesse d’épée* in France, for example, these structural changes with to the estates did not destroy the *very far-reaching cultural unity of the nobility*. The entire nobility still remained landed. With the introduction of a London ‘season’, the town houses of the rich nobles required them to consort with the bourgeoisie, giving new forms to the marriage market, developing cultural entanglements of all kinds, and making possible for the first time extended sessions of Parliament and national political strategies. But this did not shake the cultural dominance of the ideal of the landed nobleman. On the contrary, this spread to become an aspiration of the upper bourgeoisie as well.

The causes of these changes to the estates, which I shall discuss in more detail below, lay on the one hand in a *change in the conditions of appropriation*. One section of the nobility was forced into these irrespective of their will. Other members of the richer noble strata, on the other hand, successfully applied both new and long-standing strategies to ensure their material and social dominance.

The material and political decline of a section of the less well-off gentry was caused in part by the long-lasting agricultural depression, with its falling rental incomes and land prices.<sup>294</sup> It is true that in years of bad harvest – for instance, those of 1693, 1699 and 1709 – grain prices were high and exports

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<sup>294</sup> Clay 1984, Volume 1, pp. 158–64; Jones 1978, p. 73.

forbidden, but it was the middlemen and the better-off landowners who profited most from this conjuncture, as opposed to those who could not delay selling until prices reached a peak. At the same time, the burden of Poor Law tax increased during these decades. For simultaneously with the agricultural depression, rural textile industries were affected by a crisis of demand, leading many families to unemployment and desperate need. Finally, the tax demands they faced after the Restoration were considerably higher than in the first half of the century. The power politics by which the English crown won a leading place in international diplomacy, and a pre-eminent position on the world market for those members of the English nation who could profit from this, had to be financed by all strata of the population. Along with the peasantry, the families of the lower gentry belonged to those social groups that had particular difficulty in making up for these financial burdens.

It was also at this time that particular families of the 'parish gentry' managed to rise materially and socially into the higher 'squirearchy', although besides efficient economic management and fortunate legacies, favourable marriages were also generally indispensable for this: i.e. precisely those forms of appropriation through which the higher strata of the nobility could counter difficult conditions of appropriation.<sup>295</sup> Because such strokes of fortune affected many families of the lower gentry, between 1665 and 1695 from a third to a half of families claiming gentility changed places;<sup>296</sup> i.e. one portion of the gentry families lost their social status, whilst others, previously non-noble, rose into the lower nobility.

At the same time, the high tax burden of the war years – which in the more thoroughly administered regions of the south and east could take up to a quarter of annual income – meant that many noble families who had previously been counted among the so-called 'county' nobility could no longer afford those forms of consumption that marked their membership of this stratum. They thus lost – in the long run, if not immediately – access to office and other political influence at the county level, and along with it, marriage and career prospects for their children.

It is not surprising, therefore, that the lower gentry frequently viewed with disfavour the dissolute and extravagant life of the court, the corruption of

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<sup>295</sup> Clay 1984, Volume 1, p. 159.

<sup>296</sup> Wrightson 1984, p. 26.

official positions, and often the entire political process.<sup>297</sup> This also explains why criticism of the presumption of the 'monied interests' became a widespread theme in their outlook. The families of the monied or manufacturing interests – even those who were not recognised as social equals by the lower gentry – were now in a position to send their sons on the Grand Tour, endow their daughters with substantial dowries, keep a well-equipped town house and even acquire a landed property or a villa in the 'home counties'.

The reasons for the material rise of the monied interests can be rapidly summarised. First among them was the immense profit from foreign trade, which reached an initial peak in the 1680s and was promoted by the power politics of the government. In some sectors, a further factor was the end of restrictions on production, which had been *de facto* abolished in the course of the revolutionary conflicts.<sup>298</sup> More important, however, was material participation in the centralised appropriation that resulted from interest on the state debt; finally, the growth of the state apparatus offered increased access to sources of income that had previously been seen as incompatible with estate membership. Long after this period, social status in England was still *determined not by possessions and income alone, but rather by source of income*. Income from office was seen as largely on a par with that of land. The increase in number of state officials meant at least theoretically the expansion of possibilities for social ascent into the upper strata of the nobility.

The most direct paths for such ascent were the study of law and the purchase of an officer's commission. On closer inspection, however, the holders of really high and lucrative positions in the civil administration were the sons of the upper gentry and the younger sons of peers. And while the proportion of army officers from the lower gentry and 'middle' classes (i.e. rich farming and well-to-do bourgeois families) did rise from the 1670s on, the higher posts here too remained almost exclusively in the hands of the offspring of peers and those gentry families whose head bore a noble title.<sup>299</sup>

Criteria of social selection structured the market for officers' commissions. These commissions were indeed an object of trade – to be acquired from their previous owner, not as in France from the crown. This did not mean, however,

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<sup>297</sup> Jones 1978, p. 13.

<sup>298</sup> Clay 1984, Volume 2, p. 249.

<sup>299</sup> Childs 1976, p. 37.

that they could simply be bought for cash.<sup>300</sup> In 1684 a brief attempt was made to forbid the sale of commissions, and William III made a new and more far-reaching attempt to increase in this way the professionalisation of the army and thus also its efficiency. But from the turn of the century on the sale of commissions was once more tacitly tolerated, and in 1725 this was formally accepted, in as much as the crown published a price list for particular ranks. Successive monarchs and military authorities were unable in the long run to deprive the holders of commissions of the opportunity for private profit by transferring them to the possession of the state.<sup>301</sup>

The social origin of the holders of military ranks and high administrative positions shows that ascent into the higher strata of the nobility was not that easy. This suspicion is confirmed if we follow here the criterion of the Stones, and take membership of the upper squirearchy as being established by ownership of a landed property and integration into local possession of the means of generalised power. All in all, there are only a few careers, and very slow ones, leading from the parish gentry up to those noble strata whom the Stones describe as the 'élite', along with isolated side steps into high administrative positions.<sup>302</sup> Examples of this kind are too thin on the ground to give the myth of an 'open' English nobility any real currency.

As far as the upper gentry and peers are concerned, their potential possession of the material proceeds of centralised power rather increased after the Revolution by way of their hold on high offices and pensions. The same applies to the locally generalised power of estate rule. Nonetheless, these families were also prey to difficulties of appropriation and the prospect of indebtedness, with a consequent reduction in their possessions. They also faced the danger of a disappearance of their family name, due to a failure of surviving male heirs. This was all the more so in that some heirs decided not to marry at all, or not to re-marry after the early death of a first wife. The wars waged by William III and Queen Anne deprived many high noble families of their direct heirs. The high nobility developed particular modes of behaviour to guard against such threats. They sought to enforce a family-oriented matrimonial policy, to limit free disposal of family possessions, and if need be, to obtain

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<sup>300</sup> Childs 1976, pp. 44–5.

<sup>301</sup> Cf. Bruce 1980, pp. 17–26.

<sup>302</sup> Stone and Fawtier Stone 1984, *passim*.

the persistence of the family name despite the lack of biological successors. This last was achieved by the adoption of a relative or transmission of the name to a daughter's husband. Limitations on the disposal of possessions, though initially a behavioural strategy, subsequently developed into specific institutionalised regulations on inheritance around the end of the seventeenth century (so-called 'strict settlement'). The obligation to enter a family-oriented marriage, despite certain 'exceptions', was firmly anchored in the habitus of these strata, to the extent that matrimonial strategies can be seen as one of the most important ways of concentrating possession within the high nobility.

Because agricultural historians have contested with good reason (and still do) the claim that larger estates enjoyed relative structural advantages over smaller ones in the late seventeenth and early eighteenth centuries, we should recall here that a definitive answer to this question should not be confused with that of the potential increase of wealth among England's high nobility.

The second key form of concentration of wealth, along with matrimonial policy, was that of inheritance. The Stones explain how no news was more important to the families of the high nobility – indeed often awaited with bated breath – than that of the illness or death of a dear relative.<sup>303</sup> In the period under consideration here, the upper strata of the nobility – with certain exceptions – generally stabilised the conditions of their material reproduction. As far as the peers were concerned, they even achieved a legal sanction of their social position in obtaining the revival of an almost forgotten penalty for *scandalis magnatum*, or bringing the king's advisers into contempt.<sup>304</sup> At the same time, however, for the very first time in history, peers had also to swear an oath in court, and could not simply be taken at their word. In respect of the Test Act, not only were those aspiring to office formally on a level, but the oath to uphold Anglican belief was required without respect to social origin.

This practice was forced on the crown by the House of Commons. Considerations of religious policy were thus still seen as so decisive that even the privileged estates had to give way. This conclusion is also confirmed by the regular public hysteria provoked in 1679–81 by an alleged 'papist plot' against the life of the king.<sup>305</sup> The same tendency is indicated by the fact that

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<sup>303</sup> Stone and Fawtier Stone 1984, p. 145.

<sup>304</sup> Western 1982, p. 66.

<sup>305</sup> Cf. Ogg 1967, pp. 559–606.



the Whigs viewed the unity of Anglican religious practice and personal royal rule as indispensable. Nonetheless, religion itself was differently determined after the Revolution. Whilst it is true, as J.C.D. Clark repeatedly stresses, that religious differences could still be decisive in political conflict right to the mid-nineteenth century, the relationship between politics and religion had fundamentally altered in the meantime.

Already at the time of the Test Act and the prescription of religious uniformity, in the years of anti-papist hysteria and the exclusion crisis, a new notion of the requirements of stabilisation developed – especially among the higher strata of the nobility. For the first time, in the theory of well-conceived (in particular, materially determined) interests, this was seen as not dependent on a particular religious practice. Thus the Catholic legal scholar John Austin put forward the view in 1651 that Catholics, in so far as they were permitted freedom of belief, were ‘bound by their own interest (thus the strongest obligation for reasonable men) to live peacefully’; and in 1688 the admiral and Quaker William Penn wrote:

‘Whatever be the morality of any party, if I am sure of them by the side of interest and necessity, I will never seek or make an ensurance by oaths and tests’, [and later]: Interest has the security though not the virtue of a principle.<sup>306</sup>

Such revolutionary departures from the requirement of religious unity had been conceived at a time when the Protectorate based political and social stability on a standing army.<sup>307</sup> They were now reconciled in theory and practice with the restored estate rule by the existence and recognition of a harmony of interests within the nobility. Initially, this recognition influenced above all the already mentioned weak application of laws against dissenters, but, eventually, it led to a wider (though still by no means complete) emancipation of political factions from the religious beliefs of their members, in comparison with the era of revolution. This, in turn, potentially strengthened the ability of ‘the nobility’ to prevail against the crown.<sup>308</sup>

All this in no way undermines the importance of the church in connection with local practices of rule. On the contrary, since the passion of religious

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<sup>306</sup> Cited after Western 1972, p. 167.

<sup>307</sup> Western 1972, p. 160.

<sup>308</sup> See here Cannon 1982, p. 448.

conviction had partly become a private affair, the ecclesiastical organisation was now in a position to become a formative instrument of social respectability, a supporting instance for the remaining public aspects of religion. This allowed the Church of England, very similarly to the contemporary situation in France, to become an educational instance, quite independent of the specific forms of practice sanctioned by the ruling authorities. In both kingdoms, this was expressed above all in the moralising new conceptions of 'poor policy'.

*The separation of estate self-conception from specific forms and contents of ecclesiastical religious practice* did not just create the basis for a practice – if initially still very limited – of religious toleration, it was at the same time also an element – the result as well as the cause – in a general process of secularisation.

Over the period considered here, this process accelerated. Correspondence in time, however, can only be interpreted in exceptional cases as evidence of causal connection; for the rejection of 'old-fashioned' (theology-oriented) education at the English universities went together with the relative withdrawal of the upper gentry and peers from these institutions, and the formation of the ideal of the worldly 'man of quality',<sup>309</sup> and both of these coincided with the restoration of an apparently unchallenged rule of the upper strata of the nobility. Precisely because their political dominance was hardly contested, but constantly reproduced in structures of social deference,<sup>310</sup> members of these noble strata were prepared to see 'true nobility' lying less in the possession of lands and influence, which was taken for granted, than by precisely determined habitual forms of behaviour. As L. Stone and J.C. Fawtier Stone have impressively demonstrated – and certain critical objections to details of their statistical analysis do not in my view affect this – determinations of this kind had at least as great a selective impact as legally formalised estate demarcations did in other countries.<sup>311</sup> Although there were considerable regional variations in the prospect of being judged by these criteria of behavioural demands and thus being potentially admitted to the charmed circle, depending on the different distribution of wealth, the decades following the Revolution and the Protectorate were characterised by an expanded '*nationalisation*'

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<sup>309</sup> Wrightson 1982, p. 193.

<sup>310</sup> On this see Jenkins 1983, pp. 37, 95.

<sup>311</sup> Stone and Fawtier Stone 1984, p. 403 & passim.

of the self-conception of the ruling families as well as of a part of their practices of reproduction and rule.<sup>312</sup>

As Philip Jenkins has shown in an exemplary work, in Wales this process led to the dissolution of a unitary Welsh culture, as the higher strata of the nobility became integrated into the generalised culture of the ruling estates of England by way of marriage contracts and political connections, while 'Welsh' (including the language) became a characteristic of inferior groups of the population.<sup>313</sup> To a less drastic extent, developments of this kind can also be assumed for other local characteristics.

Landed property continued to ensure both the material and also in the stricter sense the social and political reproduction of the status of a noble family in the local context. The 'nationalising' of a section of the practices of rule of the higher noble strata, however, considerably altered this 'local context'.<sup>314</sup> As Norma Landau has made clear, membership of political factions which were not simply regional acquired increasing weight at this time in the appointment of Justices of the Peace.<sup>315</sup> What was involved here was a symptom of the process of dissolution of old forms of *personal obligation* in favour of a new system – still personal in orientation – of *political connections*.

The dominant structure of the *ancien régime* thus remained in place after the Restoration, in both the estate possession of generalised power and the persistence of its constitutive elements. Nonetheless, reference to continuities is only half the story; for, on the one hand, estate rule was expanded on the basis of the depersonalisation of monarchical power, while, on the other hand, the upper ranks of the former ruling estates monopolised a considerable part of this rule. The fact that monopolising strategies of this kind could make at least as full a use of practices of social discrimination, as of the possibility of obtaining influence by way of patronage or money, only makes clear once again how reference to formal regulations is only one side of the question of structures of rule.

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<sup>312</sup> See on this point Wrightson 1982, p. 222.

<sup>313</sup> Jenkins 1983, p. 283 & passim.

<sup>314</sup> Wrightson 1982, pp. 222–3.

<sup>315</sup> Landau 1984, pp. 69–71.

## Chapter Three

### **The Estate Constitution of Public Power**

The revolutions of the seventeenth century did not bring about the end of the *ancien régime* in England, but they did effect an accelerated broadening of the generalised power. The social scope of this process remained restricted. What was essentially involved, in sum, was the collective appropriation of the king's personal rule by the members of the privileged estates: the broadening of centralised and generalised power was restricted in this way. For the duration of the *ancien régime*, ascent into the ruling estates remained the most important, if not in each individual case an indispensable, precondition for access to the political sphere, and to possession of the means of local power.

In this chapter, we shall discuss the structural changes in the *ancien régime* in the century that followed the 'Glorious Revolution'. As against those of the previous century, these cannot be readily discerned from constitutional alterations. Yet it was not only the social preconditions of ruling practice that changed, but also the forms of this rule itself. In so far as the leading strata of the nobility took disposal over the royal prerogative into their own possession (to some extent formally, but above all *de facto*), they constituted a political public sphere in which factions competed to determine the direction of policy. These were not yet parties in the modern sense of the term,

as they continued to be essentially organised as connections among individuals. And yet – I argue here against the interpretation of Lewis Namier<sup>1</sup> – the estate constitution of the structure of public power necessarily brought with it an overlaying of earlier clientele groups by groups competing over policy. From the end of the seventeenth century, crown and Parliament jointly possessed political sovereignty, but they did not dispose of the government of the country. This had been appropriated – more unrestrictedly than ever before – during the Revolution and Restoration eras by the Justices of the Peace. For this reason, alterations in the conditions of access to this office and in the forms of its practice amounted to a structural change in the system of rule. During the decades that a numerically rather small group of aristocrats controlled events at Westminster, the social forms of rule underwent a complete change. If we sought to bring all the many different aspects of this change on to a common denominator, this would be the new definition of ‘interest’. Through to the end of the seventeenth century, ‘interest’ was seen as a (chiefly) materially based relationship between specific individuals. In the course of the eighteenth century, however, there already developed the economic, social and political preconditions for the modern conception of interest. This was in a certain sense ‘depersonalised’; for modern interest groups link bearers of interests rather than specific individuals.

The ‘English form’ of bourgeois revolution is the transformation of members of the ruling estates of the *ancien régime* into privileged members of interest groups in a bourgeois society. This process was already under way in the eighteenth century, but it was easily disguised by the phenomena of oligarchy, deference, and the religious establishment.

### **a. Dissolution of the personal power of the English monarchs**

With the Act of Settlement of 1701, the dynastic basis of the monarchy – and with it one of the central components of personal rule – was modified by Parliament. The dependence of the succession on Protestant belief, which was first of all implemented *de facto* and then formalised in 1701, placed limits established by Parliament on any personal claim to the throne.

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<sup>1</sup> Namier 1957.

This restriction of royal sovereignty was not unchallenged. Until the middle of the eighteenth century, Jacobite notions (also fuelled from other sources) held that the foundations of the constitution had been shaken by the rejection of the dynastically legitimate king. It was not only Jacobites, however, but also simple Tories, who continued to believe in the king's personal rule, in the provinces at least through to the Seven Years War.<sup>2</sup> The depersonalisation of the crown pursued by the Whigs was far from dominating political discourse uncontested.

The view of the opposition was a pertinent one. The Act of Settlement – paradoxically as this may appear at first sight in view of its religious politics – put an end to the conception of divine right. In the Middle Ages, victory in battle had been seen as a sign of God's support. This was still the basis on which the Tudor dynasty had established itself. As the *ancien régime* developed, and decisively by the Restoration era, the divine choice of the secular ruler was tied to dynastic succession. This was the argument with which the Tories at the end of the seventeenth century persisted in unconditional obedience to any legitimate king. When Parliament laid down a religious condition for the validity of the dynastic succession, divine right was demythologised. It corresponded to this altered basis of his rule that George I (1714–27) abandoned the cure of scrofula as an outmoded relic of the Stuart dynasty.

The religious restriction on royal rule actually meant, on closer inspection, its secularising. This changed the conditions of debate over its scope. As has already been argued above, sovereignty had lain since 1690 with the crown and the two Houses of Parliament. The concrete shares of each remained contested, until George V (1910–36) finally established the practice of a constitutional monarchy.

As late as 1912 the opposition Unionists, including the former Chancellor, Lord Halsbury, held the view that if the House of Lords was disempowered (see below), its previous controlling function should fall to the king; it was on this basis that they asked him to veto the Irish Home Rule bill.<sup>3</sup> The government did not share this interpretation of the king's constitutional rights. But even in 1914, the prime minister of the day, Asquith, counted his own dismissal as among the constitutionally possible measures that the king might

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<sup>2</sup> Colley 1982, *passim*; Clark 1982, pp. 25–7 & *passim*.

<sup>3</sup> Hardie 1970, pp. 130–1.

take to resolve the Irish conflict.<sup>4</sup> In my discussion below of the dissolution of the personal rule of the English monarchs, it should therefore be borne in mind that despite a process of increasing disempowerment, a considerable residue of competence was still claimed at the start of the twentieth century.

Whilst the limitation on royal prerogative in the realm of financial policy that has already discussed can be read from the analysis of legal texts, the next stage in depersonalisation was an indirect one. It did not affect the prerogative of the crown as such, but rather the circumstances in which this was exercised. It became clear during the four decades of continuous rule of the Whig magnates that the king was powerless against a threat of collective resignation by his ministers.

The king still had the power to appoint new ministers, and George II (1727–60) made use of this power on three occasions. But stable parliamentary majorities had the same *de facto* effect as ministerial responsibility to Parliament.

Even when the political hegemony of the Whig magnates began to wane in the 1750s, this did not notably increase the king's room for manoeuvre. George III (1760–1820), at the beginning of his reign, succeeded in appointing a favourite courtier, the Earl of Bute, as prime minister, but he was unable to keep him on indefinitely. Almost a hundred years later, William IV (1830–7) made a similar attempt, but after Sir Robert Peel's resignation in 1835, no English monarch again tried to appoint a prime minister without the support of Parliament. *The development of party organisations made this royal prerogative obsolete in practice.*

In the second half of the eighteenth century, the monarch already lost his power to determine the guidelines of policy. For those politicians who could be considered for appointment as prime minister were now in a position to set political conditions. It was in this way that George III's agreement to peace with the American colonies was obtained.<sup>5</sup>

This political disempowerment was given a further boost when the right to appoint new peers, along with the granting of pensions and court offices, was transferred to the prime minister. From this point on, the crown's patronage lay in the hands of the government of the day.

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<sup>4</sup> Hardie 1970, pp. 135–8.

<sup>5</sup> Pares 1967, p. 197.

The so-called 'economic reforms' of the 1780s arose from criticism of the policy pursued towards the North-American colonies and the war that followed. In the public political sphere, and especially in the so-called 'Association', this foreign policy debacle aroused much talk of demanding 'sincerity' on the part of politicians. The issue here, as we shall discuss further below, was the start of a discourse of the English nation. The particular aim of many of the critics was to increase the number of Members of Parliament who were in no way materially dependent on the crown. 'The saving of money is but a secondary object. The reduction of the influence of the crown the first' as I.R. Christie cites one of the protagonists of the 'economic reforms'.<sup>6</sup>

The practical effect of the 'economic reforms' remained slight. It is true that some sinecures were abolished and the organisation of the royal household improved. But the number of 'placemen' (i.e. MPs whose material dependence made them controllable by the crown) was smaller than contemporaries maintained.<sup>7</sup>

Eventually, the Establishment Bill introduced by Edmund Burke sought to put a decisive end to royal patronage. This failed in its effect, however, because irregular payments from the crown to individuals still remained legal. In a normal year, such payments amounted to £138,000. In the long run, what the conflict over these reforms particularly achieved was a different attitude towards the private exploitation of generalised appropriation power.

Although monarchs after George III only granted titles of nobility at the decision of the government of the day, formal investiture continued to require their collaboration. During the constitutional crisis of 1910–11, George V was therefore asked for an assurance that he would appoint a sufficient number of new peers to swamp the House of Lords if it refused to consent to its own disempowerment. In the event, however, a majority of peers eventually voted for the Parliament Act, thus sparing him the fulfilment of his promise.<sup>8</sup>

On the other hand, the right to nominate future peers, and the consequent reduction in the party-political significance of this, did not immediately revert to the monarch with the disempowerment of the House of Lords. When George V wanted to bestow a knighthood on the inventor of the flying boat,

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<sup>6</sup> Christie 1970, p. 296.

<sup>7</sup> Christie 1970, Chapter 14.

<sup>8</sup> Hardie 1970, pp. 116–30.



his request was flatly refused. This led him to make the exceptional complaint: 'As I so seldom ask for a knighthood, I really think that I might be treated anyhow with some consideration occasionally'.<sup>9</sup>

The ending of royal patronage as a means of policy, however, came less through the formal limitation of royal rights than – indirectly – through reform of the suffrage and the rise of political parties. When these saw themselves forced to develop political programmes and defend these in an expanded public sphere, the possibility of the monarch 'negotiating' with party leaders over the content of policy was constricted.<sup>10</sup> Yet Queen Victoria still *made* policy, and her grandson George V was forced to do so by the constitutional conflicts of 1910–14.

From the First World War, the British monarchs became advisers to the government of the day. They maintained the right to be fully informed about all actions, even secret ones. According to their temperament, they claimed the right to warn and to make proposals, though strictly in private.<sup>11</sup> Elizabeth II still enjoys a certain political influence, but no longer any power over policy. The end of royal patronage meant the beginning of a royal dignity that stood above party, and the disempowerment of the monarch created the preconditions for the English kings and queens to become integration figures of the British nation (and, for a time, also of the Empire). This change took place with Victoria. At the end of her long reign (1837–1901), she had become a living oxymoron: both demigod of British nationalism and maternal widow next door.

As the monarchical rule of the *ancien régime* changed to a royal dignity representative of the nation, this paradoxically became a symbol of the new, bourgeois society. An external characteristic of this transition is that with the 'Victorian' age, which historians like to extend until 1914, the practice of periodising English history in terms of the reigns of monarchs came to an end. Since then, the flux of time is generally measured in decades even in England.

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<sup>9</sup> Cited after Nicolson, *King George the Fifth*, by Perrot 1968, p. 70.

<sup>10</sup> Pares 1967, pp. 201–7.

<sup>11</sup> Hayden 1987, pp. 3–4.

## b. Objectification of local generalised power

The stability of the *ancien régime* in the eighteenth century is quite astonishing in retrospect. Harold Perkin<sup>12</sup> explains this in terms of the behaviour pattern of 'deference', seeing its basis in 'ties of vertical friendship'. This stabilising element in a hierarchical society, according to him, was only broken when the lords abolished this friendship by changing their practices of appropriation and rule. In his view, from the end of the eighteenth century, the class structures that were latently present became for the first time a determining structural characteristic of society. As distinct from the stability of the hierarchical order of the eighteenth century, the modern society that subsequently arose was marked by social conflict.<sup>13</sup> But Perkin takes the form of appearance of social transactions for their cause. There undoubtedly was deference in eighteenth-century England, especially in the countryside. Yet, even if, for example, farmers and tenants voted as their landlords expected, this did not necessarily arise from 'friendship', but rather because the expectation of such behaviour was one of the unspoken assumptions of a relation of economic dependence.<sup>14</sup> Respect and devotion are possible outgrowths of a material dependence on specific individuals or families. Particular circumstances that we shall discuss below promoted the reproduction of such patterns of thinking and behaviour in England under the *ancien régime*. Even so, they do not seem to have been anchored that firmly, especially among the lower orders. It was not just at the end of the eighteenth century, but also earlier, that many examples can be found of slogans from 'disturbances' and rebellions that belie any kind of deference.<sup>15</sup>

To take deference and vertical friendships as the cause of stability is also mistaken because – in E.P. Thompson's formulation – this stability expressed a specific form of terror.<sup>16</sup> The hierarchical order defended itself against all those who refused it their obedience with summary judicial procedure, draconian penal laws and the deployment of the military. Practices of this kind were principally if not universally directed against 'disturbances' on the part

<sup>12</sup> Perkin 1972, p. 49.

<sup>13</sup> Perkin 1972, Chapter 2, p. 49.

<sup>14</sup> Wellenreuther 1979.

<sup>15</sup> Hayter 1987, p. 1.

<sup>16</sup> Thompson 1975, p. 258.

of the poorer strata of the population. If the ruling estates were generally in a position to defend the existing order pro-actively against these popular groups, this was because the material and social rise of members of the 'middle' estates (in more contemporary terms, classes) could be handled within the existing forms of estate rule.

At the centre of such strategies of rule stood the social forms of the constitution and the exercise of local power of office by the Justices of the Peace. There were also other institutions of local rule, in particular the church and the – very variously constituted – town authorities (cf. Chapter 4, section a). The general persistence of institutional forms of the *ancien régime*, however, was due above all to a structural change in the office of Justice of the Peace. Their power embraced broad spheres of offences as well as policing authority, extending to almost all areas of administration including the organisation of military force and taxation.

After the Restoration, the Justices of the Peace governed almost without control by the central government. The Star Chamber, the court of the Privy Council, had been abolished. The assize courts, held twice yearly by the king's judges in the counties, theoretically functioned as courts of appeal against decisions by the Justices of the Peace, but appeals of this kind were in practice rare. Still more rare were accusations against the Justices abusing their power. The assize courts gradually abandoned the prescribed practice of enlisting the participation of the Justices. This ended the possibility of the government using these sessions for the express instruction of their local representatives.

By the start of the eighteenth century, the institutional autonomy of local government had been established. It was to last for more than a hundred years.<sup>17</sup>

Justices of the Peace did not receive a salary. Their reward lay in the recognition of their social position and the sense of power that this gave. (In the towns, it often happened that not enough gentlemen could be found to act as Justices of the Peace, so that stipendiary magistrates had to be engaged to support them.) The power of the Justices arose from the far-reaching legal and police powers at their disposal, in particular the fact that very many of

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<sup>17</sup> Landau 1984, pp. 7–8.

their administrative decisions, whether fixing contributions for the Poor Law, determining prices and wages or assessing tax on individuals, affected disposable income. Norma Landau believes that it was less the power to chastise beggars, vagabonds and poor vagrants, but rather the effect of their power in relation to the better-off and their equals, that gave them satisfaction. Whatever the individual case might be, the extent of their local power was such that governments sought to fill the office of Justice of the Peace with individuals who supported their policies and whose practice in office could be expected to meet the structure of 'interests'. They could thus expect that all who had an obligation to a Justice of the Peace would vote for the candidate he supported.

Personnel policy, however, could not be completely partisan. Justices were certainly appointed by the Lord Chancellor, but he had to bear in mind the proposals of locally influential families, firstly because the government could scarcely afford to arouse their displeasure, and secondly because Justices of the Peace could not act effectively against the opposition of their peers. For this reason, even in the heyday of Whig hegemony, Justices were appointed whose Tory position was generally known. As can be seen from election results, these used their office, as might be expected, to build up an 'interest' and thus promote the election of Tory candidates.

The fact that the office of Justice of the Peace remained dependent on the goodwill of the government of the day, as opposed to the independence of judges, meant that the occupation of a county 'bench' had great significance in election campaigns. The political rise of the Whigs in 1715–16 was therefore accompanied by a downright overthrow of local administration. Whenever and wherever the outcome of elections appeared uncertain, the political orientation of Justices acquired pressing interest for the government. In situations of this kind, the men appointed were chiefly those who already exerted great influence in the county in question. Their office was then the result of the respect they enjoyed and not its cause. This made the office of Justice of the Peace very largely an attribute of individual rule. In the eighteenth century, the sheer duration of the Whig supremacy in Parliament, and the rarity of elections that followed from this (in many counties, no election was held for over half a century), meant that the possible utility of Justices for electoral purposes was not particularly marked. Two things thus became possible: the use of the county bench to facilitate a negotiation of social ascent in

conformity with the existing rule, and the selection of personnel where necessary from the standpoint of efficient administration and justice. Both developments successively took place in the course of the eighteenth century. In the early decades, the prevailing tendency was the appointment and re-appointment of Justices belonging to families who were seen by other members of the gentry as at least their peers. When governments with an established majority were in a position to do so, they preferred to use appointment as Justice of the Peace as social confirmation of an ascent into the society of landed nobility that had been materially obtained. The number of Justices nearly doubled during the first half of the eighteenth century. This should not be attributed to their increased 'functions', as very many of the Justices did not actually practise the office they had been granted. The proportion of so-called 'active' Justices was often quite small. Even in an earlier period, appointment as a Justice of the Peace had often sealed the rise of a family into the circle of those who mutually recognised each other as gentry, and for just as long defence strategies had been practised against what was seen as too easy a rise of new families. In the eighteenth century, this situation changed in two ways: firstly, because the number of potential aspirants grew as a result of successful new practices of appropriation, secondly because through the new political system of factions, such defence strategies became a component of political orientations that transcended local loyalties. It was the Tories above all who acted as bearers of these estate defence strategies.

This was especially significant in the demand for a property qualification for Justices of the Peace. This was designed to prescribe not just a minimum annual income, but a minimum revenue from land. Legislation of this kind was demanded in 1699, 1700, 1702, 1705 and 1711, in the last of these years with a reduced minimum level and with exceptional arrangements for government officials. It was only in 1732, however, that such legislation was finally passed, as a government measure to appease the Tories. The passage of a new law in 1745 shows the persistence of an autonomous Tory programme through the decades of Whig supremacy. On the other hand this legislation made clear that the linkage between social rank and possession of land could now be maintained only symbolically. For very many people could claim the £100 annual income from land that was demanded in 1745, all the more so in that the notion of landownership was defined by the new law in such a way as

to include all possible rental incomes, thus remaining without major practical significance.<sup>18</sup>

The central state sanctioning of the estate character of the Justices' power of office thus came to an end in the mid eighteenth century. In actual fact, ever more Justices were appointed who, while certainly being gentlemen, did not actually belong to the gentry.

With the appointment of 'mere gentlemen' to Justices of the Peace, this institution of rule typical of the *ancien régime* underwent a change of character. From an appointment that had marked ascent into the estate of lower nobility, it developed into an institution in which the dissolution of estate society could be facilitated. This change was scarcely apparent to the new Justices, who could still see their appointment as admission to the ruling estate. In fact, however, what was now involved was the formation of a ruling stratum that expanded the collective estate possession of local rule to include representative members of the ruling classes who were not privileged in estate terms. The precondition for this process was the emancipation of the office of Justice of the Peace from a political monopoly of particular families. To this extent, one can speak of a tendency of depersonalisation.

This can be seen, among other things, from the new rules of behaviour. In 1753, rank order among the members of the county bench was abolished. From now on, members were no longer listed according to their estate rank, but in simple alphabetical order. At the same time it became customary to re-appoint Justices after the expiry of their term of office, as long as there had been no complaints against their practice.

The formation of a stratum of local government that transcended estate restriction and was comparatively integrated, was both the result of and the precondition for a stronger rationalisation of administrative and judicial practice. The application of the 'rule of law' was initially socially selective. In particular, whilst the participation of at least two Justices was required for all decisions affecting taxation, and often indeed the approval of the assembled Justices at one or more of the quarterly sessions, the summary judgement of a single Justice remained for a long while sufficient vis-à-vis the poorer classes

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<sup>18</sup> Landau 1984, p. 160.

of the population. In his own home, and with the presence of a single witness who could even be in his paid employment, a Justice of the Peace could sentence a 'vagabond' to be whipped or a poacher to prison, inflict a fine for Sunday sport or profane curses, or oblige the local poor to work at harvest time. In the 1820s, for example, a certain Richer Delber, a farmer in Hampshire, was sentenced by the Duke of Buckingham on the basis of information that his own gamekeeper had provided, and the evidence of a further ducal employee, in the reception room of the ducal residence. The Justice indicated that the defendant should guard against making a single inappropriate remark, otherwise the constable in attendance would take him directly to prison or place him in the stocks.<sup>19</sup>

Procedures of this kind were not necessarily typical. But they were still possible, even in the early nineteenth century.

The scope of the Justices' room for manoeuvre made for large local and individual variation in the conduct of their office.<sup>20</sup> Yet in the course of the eighteenth century there was a local generalisation of the 'rule of law'. This can be indicated more precisely with respect to two realms of administrative practice that initially were scarcely formalised.

The hunting laws stood at the centre of public-order policy in the eighteenth century. These had a double rationale: defence of the estate monopoly of hunting privileges, and the special penal sanctioning of infringement of the preconditions of these privileges: the stock of game, fish and trees in the deer parks.

As R.B. Munsche has shown, the hunting laws of the late seventeenth and early eighteenth centuries should be interpreted above all as estate defence measures against the real or feared rise of new social forces.<sup>21</sup> For, whereas the hunting law of 1671 had taken over almost unchanged the penal sanctions against poaching from the royal forests that had existed for centuries, and judicial practice of subsequent decades still does not show any major break with earlier modes of behaviour,<sup>22</sup> the landed nobility used the new law to appropriate forest and hunting rights that in 1660 had temporarily reverted to the crown, and thus grant landlords the entitlement to employ their own

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<sup>19</sup> Munsche 1981, p. 76.

<sup>20</sup> On this point, see Brewer and Styles (eds.) 1980, introduction.

<sup>21</sup> Munsche 1981.

<sup>22</sup> Munsche 1981, pp. 19–21.

gamekeepers. In 1707 the landed nobility used their parliamentary majority to award themselves the right to give out hunting licences. This meant that such licences could no longer simply be bought from the crown, but access to the aristocratic pastime of hunting would now depend on the favour of a landed noble or the purchase of a suitable estate of one's own. This sanctioned the social revaluation of landed property as against mere wealth, and confined well-to-do town-dwellers to the inferior position defined for them by the landed nobility.<sup>23</sup> With the enclosure of an increasing number of deer parks in the course of the eighteenth century, this legislation lost some of its significance, since hunting was shifted into private estates, and possession of hunting rights brought into the matrix of general determinations for the protection of private property. But this in no way altered the monopoly of the landed nobility, and for this very reason, neither the demand for game, the *haut goût* of which meant more in these conditions than simply a matter of taste.

As it was customary in the towns to serve game on special occasions, and in this way demonstratively counter the social exclusion strategies of the landed nobility, there arose in the second half of the eighteenth century – with improved transport facilities – a large-scale black market in game. This offered poor country folk the prospect of not only meeting their immediate needs, but sometimes even earning a bit of money.

Until 1817, the game laws were steadily sharpened, and especially their application in practice, in reaction to an increase in poaching that was often<sup>24</sup> undertaken by organised groups. Rural poverty also grew steadily during this period. The many discharged soldiers and sailors, who had often not received their pay, also showed less deference than the settled population. Above all, however, poaching corresponded to a sense that the common people had of their rights, which had for centuries competed with the legislation of the powers that be.

In the 1820s, conflicts between poachers and owners of hunting rights developed into a regular war. This finally led the landed nobility to a double capitulation: by requesting central government support in the suppression of poaching, magistrates renounced the autonomy of local public-order policy

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<sup>23</sup> Munsche 1981, p. 17.

<sup>24</sup> Munsche 1981.



that they had previously so strictly defended, and by agreeing a reform of the hunting laws they abandoned an important legislative sanctioning of estate privilege.

Because game was now defined as a commodity, it could be legally traded. The price of game consequently fell, and with it the incentive for its dangerous pursuit. The stabilisation of order in the countryside, however, was only possible by the surrender of a specific estate content of public-order policy. From now on, game and fish, as well as trees in the deer parks, were simply private property like any other. This development was provoked by the effective demand for an 'aristocratic' dish – an effect of the economic rise of urban bourgeois strata – as well as by the social conflicts that developed in connection with the disappearance of traditional opportunities of provision. In these conflicts, the rural population expressed their own claim to the right to shoot a hare or fish a trout. But because they possessed no land, or had only a lease on their farm, this was not legally possible for the majority of them.

Our second example is that of the *depersonalisation of local repressive power*. This expressed not just the results of social ascent, but also the dissolution of the social preconditions of traditional strategies of public order. Extra-legal participation in the process of political decision-making had always been treated as a criminal offence, but this was strengthened by the Riot Act of 1715 and the subsequent criminalisation of 'riotous assembly'. There were frequent provocations to such behaviour: high prices and low wages, forced recruitment into the military, high tolls for the use of roads (due to the turnpike system), and much else besides. In all of these cases, repressive measures were prescribed. In fact the Justices of the Peace very often used their power of office in the eighteenth century to apply the laws only with reference to particular individuals and their demands. In other words, they based their practice of office on a *judgement* of the parties involved and the criticism of them that was made. This traditional form of local public-order policy assumed that the Justices were personally acquainted with the conditions of life and ideas of the protestors, and indeed knew many of these individually, while conversely, an undertaking on the part of a Justice had to be believed because he possessed personal authority. Mutual acquaintance of this kind, however, could only maintain its policy-determining character so long as the practice of authority remained in close connection with personally determined relations of work and reproduction. As soon as these dissolved, the material basis of

traditional public-order policy disappeared. This was however precisely the case in the course of the eighteenth century. Many peasant families lost the basis of their livelihood as a result of enclosures, while increased bread prices caused widespread hunger – particularly at the end of the century. Large farmers and landowners went over on an increasing scale to hiring servants of both sexes only for a year with board and lodging, and at times simply making use of casual workers. A considerable part of the English rural population were proletarianised, and in place of their work and life having a hierarchical connection with the lords, relations were increasingly simply those of objective exploitation. This meant that from now on authority was more external to the conditions of work and reproduction, and could not be relied upon to the same extent for preserving peace and order.

At the same time, estate rule was also objectified by the changed relationship of its upholding groups to market conditions. Market relations had certainly determined the material conditions of reproduction for centuries. But the end of the eighteenth century saw an increasing tendency to exploit the possibilities of profit without regard to traditional practices for stabilising local rule. In an essay that has rightly become classic on the values expressed in the forms of protest of the rural lower strata, E.P. Thompson has shown how magistrates were often guided by norms of this kind in relation to the bread riots of the eighteenth century, and yet the immense profits made from the corn trade in the war years at the end of the century soon made ideas of a 'just price' and of the lords' obligation to provide at least a basic minimum 'outmoded'.<sup>25</sup> This meant that the local magistrates' power depended more than before on the back-up of naked repression. Police forces, however, were too few in number, especially in the countryside. Occasionally, therefore, gentlemen in the service of the local squire had to undertake this task. A few towns, for example Nottingham, already sought to establish a regular paid police.<sup>26</sup>

In the countryside, too, constables made a more regular appearance when it was necessary to prevent protest movements. As a general rule, however, they were not prepared to act against their neighbours, and they sometimes even found reason to put themselves at the head of local protests.<sup>27</sup> There

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<sup>25</sup> Thompson 1979, p. 71.

<sup>26</sup> Darvall 1969, p. 252.

<sup>27</sup> An example is given by Hayter 1978, p. 19.

thus remained armed force. This meant on the one hand the 'yeomanry', a volunteer formation formed from farmers and peasants and commanded by landed nobles. The Justices sought to avoid its deployment, as the yeomen had a claim to compensation. They could not however completely do without this, as the regular army regiments were generally not immediately available in cases of disturbance.

There were two reasons why recourse to the standing army was rather rare in the eighteenth century. First of all, any request for military support amounted to a confession that the Justices were unable to govern without the help of Westminster. Local government autonomy, however, was a value that the Justices were always reluctant to renounce. The fact that following the Wilkes disturbances of the 1760s, and especially at the end of the century, so many Justices requested the Home Office for advice and asked the army leadership to dispatch regiments, speaks more clearly than anything written in letters or diaries as to the extent of insecurity and fear of possible revolution that was widespread at this time among the ruling estates.<sup>28</sup>

The second reason for the reluctance to demand military support lay in distrust of the army in time of peace. For many, such distrust was the most important foundation of the constitution. Since the time of Charles I and the Commonwealth, a peacetime army smelt to some of absolutism and to others of dictatorship. This made the brute blatancy with which, for example, sections of the French army and even regiments composed chiefly of foreign mercenaries were deployed against a rebellious population, something impossible in English conditions. In many cases in the eighteenth century, magistrates were even taken to court for deploying the military. They were generally acquitted, but their legal power to call in the standing army had scarcely any anchorage in the self-conception of the ruling estates. It was for precisely this reason that army officers were advised by their superiors to act in such a way that responsibility for intervention remained with the civil authorities. Even before the formalising of conditions for the use of military force – after a first failed attempt at legal regulation in the Riot Act of 1715,<sup>29</sup> this was only seriously tackled in the reign of Victoria – the self-conception of the ruling estates set limits to the use of military force to maintain public order.

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<sup>28</sup> Marshall 1974, p. 161; Hayter 1978, p. 23.

<sup>29</sup> On this see T. Hayter 1978, Chapter 2.

This did not prevent dead and wounded, and the English *ancien régime* was by no means a system in which material and political demands could be raised without having to fear for life and limb. After riots, and even demonstrations that were regarded as riots by the authorities, people were condemned to death, deportation, military service or prison, often on summary procedures. And yet the widespread public mistrust of the army, and the reluctance of officers and soldiers to undertake the 'riot duty' imposed on them, restricted personal possession of the means of force in local government practice.

When Parliament decreed in 1782 that the central military authorities could be held to account for the behaviour of the army when this was deployed domestically, the power of decision over the use of military force was in part withdrawn from the locally ruling estates and there was the beginning of its 'nationalisation'.

Causes adduced for the depersonalisation of local power of office have often included the rise of numerous 'gentlemen' into the ranks of the possessing hierarchy which were formerly monopolised by the nobles, as well as the dissolution of traditional forms of personal dependence in the countryside. In the second half of the eighteenth century new causes were added to these: the demands made on (local) taxation and military administration in the event of foreign war, as well as the need to deal with political radicalism – especially in the emerging towns. At this point, we shall simply indicate the results of this: the formation of a leading stratum that represented no longer just the ruling interests of the landed nobility, but far more clearly than before those of the *propertied* as a whole, along with a certain – if still limited – de-individualising of the practice of office and consequently also of the official authority of the Justices of the Peace. This authority had previously been tied to specific persons, but it was now far more surely based on the office itself.

Even while the institution of Justices of the Peace still sufficed to deal with the material rise of new forces without endangering the political hegemony of the upper ranks of the nobility, there developed within the forms of personal rule the practice of a nationalised power of office.

### **c. The 'Establishment': transformation of church rule**

The rule of the church was restored in 1660 along with the monarchy – and, indeed, without those concessions that the Presbyterians had hoped to derive

from their support for the exiled son of the beheaded king. The Church of England remained episcopalian, the bishops were once more by virtue of their office members of the House of Lords, and church courts were restored (though not with all their previous powers). The English bishops also accepted without resistance the loss of their right to raise a special tax on their congregations – and thus a financially based negotiating position in church affairs.

One result of this last decision was the end of the church ‘Convocations’ that had been previously summoned by the crown. After the lower clergy demanded greater autonomy for the church in 1717, and opposed a decree to dissolve the Convocation, the crown ceased calling further assemblies of this kind.<sup>30</sup> The Church of England was now governed by decisions of Parliament, to which the clergy did not belong – apart from the bishops in the upper house. Only in 1852, when the Church of England once more surrendered a considerable part of its legally guaranteed privileges, was a church assembly again summoned. The interest in reform of the church made the beginnings of a centralised structure for church opinion seem once more politically useful.

In the late seventeenth century, the restoration of a state church was contested. Opposition to this measure was expressed in the rise of the free churches. In this early Nonconformism, religious and constitutional views converged into a unity, but once the new dynasty and its political relations stabilised, Nonconformism of this kind lost its attraction for the nobility. When the families of the upper nobility and the higher gentry prepared to return to the state church, this robbed the Nonconformist religious movements of both their more influential representatives and their former social-religious dynamism. They lost both supporters and influence.<sup>31</sup>

With the change of dynasty in 1688–9, the constitution of the state church experienced an internal shock. The so-called ‘non-jurors’, Anglican clerics who refused to swear to the Act of 1701 establishing the Protestant succession, saw the Church of England as bound up with the Stuart dynasty. Only the final military defeat of the Jacobites in the mid-eighteenth century put an end to this striving for independence within the established church.

The political stabilisation of the state church in England was above all the result of a stabilisation of monarchy and dynasty. But, if the Church of Eng-

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<sup>30</sup> Rupp 1986, pp. 59–64.

<sup>31</sup> Gilbert 1976, pp. 15–18.

land became a component of the ruling structures of the *ancien régime*, this was due first and foremost to the estate character of the clerical office, combined with the increasing social and cultural integration of the clergy into the ruling estates.

Like other office-holders under the *ancien régime*, the majority of the clergy viewed their position as a possession entitling them to appropriate a rental income. The duties of office were often interpreted very generously, and their exercise was seldom checked. The degree of pluralism, i.e. a single priest's possession of several 'livings', made the priestly function in many cases quite impossible, while in other cases this was undertaken by poorly paid curates with scarcely any theological training.

These realities in the practice of clerical office reduced the possibility of securing political stability by the enforcement of religious unity and conformity to ecclesiastically defined moral norms. The difficulties that confronted the realisation of the claim to uniformity of belief and behaviour, however, did not abolish the political sanctioning of this claim. If Nonconformism, Catholicism and occasionally even scepticism enjoyed a good deal of *de facto* tolerance in the eighteenth century, this situation remained hedged with reservations – apart from the particular privileges granted by legislation to certain of the free churches.

The exercise of rule of the Anglican clergy was not confined to the state-sanctioned disciplinary measures of the church. In the House of Lords, bishops shared in the drafting of draconian penal legislation, and in the counties there were a considerable number of clerical Justices of the Peace. They took part in the suppression of disturbances, the condemnation of church members and later the supervision of the Poor Law. This shared exercise of rule was the basis of the characteristic eighteenth-century alliance of squire and parson, along with their converging interest in measures to increase the profitability of agricultural production. In 1817, the profit orientation of agricultural production long practised by the Anglican clergy was officially legalised.<sup>32</sup> But the alliance between religious and secular landed proprietors was made real above all by the material and at the same time social rise of the lower clergy.

Just like the bishops' incomes, those of the local clergy also showed an immense variation. Many of them were driven by material conditions to

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<sup>32</sup> Ward 1973, pp. 108, 113.

pluralism, conflict with farmers over leases or the failure to hand over tithes. Many in the eighteenth century, however, managed through such practices to reach a level of well-being that not only made them acceptable as Justices of the Peace, but also as dining companions and sons-in-law of the gentry. In the next generation, such established social and kinship connections facilitated their rise and their continuation in office. During the course of the eighteenth century, the proportion of clergy whose fathers had already belonged to this estate grew significantly.

The unity of squire and parson was reinforced by the far-reaching secularisation of patronage rights. In the Reformation, the crown had appropriated the greater part of such rights along with church lands, while retaining patronage over bishops. But, by sale and other disposal of church lands, a large part of the remaining patronage rights fell into the private possession of the landed nobility, who used these rights as a commodity for sale, or else to provide a living for their relatives or those of other noble families to whom they felt indebted. In some cases, the patrons dictated to the local clergy the required forms of worship, but more usually these were a secondary concern. By and large, however, the secularisation of patronage rights meant the reinforcement of an orientation of the entire Anglican clergy towards the nobility that already existed. This did not make all local clergy into those hunting, drinking and theologically unschooled exemplars that are so notorious in English fiction. But it did remove the Church of England socially and politically that much further from the majority of its nominal members, all the more so as the living conditions of a large section of the rural population deteriorated. The Church of England had certainly never been a church of the 'people', and the enforcement of Sunday attendance did not mean that the poorer rural population all listened regularly to the word of God as proclaimed by the vicar. (In many outlying places, travelling Methodist preachers seem to have carried out systematic Christian missionary work among English men and women who had supposedly belonged to the Church of England for generations.)

What changed in the course of the eighteenth century was thus neither the fundamental character of the Church of England's rule, nor that of the groups that were the bearers of this, and yet social developments at the end of this century and the beginning of the next displayed its partisan character with particular clarity. This was shown among other things by the way that an expansion of religious provision for the urban manufacturing population

was scarcely discussed at all during the eighteenth century, and certainly no attempt was made to deal with it. This would have required a subdivision of existing urban congregations, and thus ran counter to the possession rights of existing incumbents. Curtailing these would have required an act of Parliament. Only the great shock of the French Revolution made the fact that the poorer classes in England were scarcely in a position to attend church even if they wanted to do so, into an object of political debate and action. Regulations designed to facilitate the establishment of new urban congregations, however, were not undertaken until a good half-century later.

The question of seating in church was one of the most visible problems of the English national church. It was taken for granted that leading families sat at the front. But the rental of almost all seats in church led to a situation in which poorer church attenders could only find room at the back or sides, if at all, and in many cases could neither see or hear the vicar. The situation in the rapidly growing towns was especially serious. The number of seats in church here had not the least relationship to the obligation of Sunday attendance that was still in force.

In 1818, the government set in motion an immense programme of church building, and when the reformed Parliament after 1832 was no longer willing to spend such high sums, the programme was continued until 1853 on the basis of private donations. Only when the number of seats in church rose did it become evident that the 'Church of England' no longer had need of them.<sup>33</sup>

A key reason for the historical dissolution of state-church structures lay in the de-culturalisation processes that went together with industrialisation. For most of the working class, their often limited participation in the forms of Anglican practice ended with their migration from village to town. The 'established' church did little to prevent this disappearance. By the early nineteenth century, not only was it very far from organising the religious practice of the entire population, but only a minority of those who saw themselves as Christians still belonged to the Anglican church. Convinced Protestants now adhered increasingly to the Methodists who had been excluded from the Church of England, or to one of the more recently established free churches.

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<sup>33</sup> Ward 1973, Chapter 5; Solway 1969, pp. 215–75.



This *de facto* dissolution of the monopoly position of the 'establishment' did not however lead to a legal dissolution. Since the Church of England and its personnel were integrated into the practice of estate rule, any attack on the constitution of the state church amounted to an attack on the *ancien régime*.

Even such petty changes as the abolition of provisions which had long fallen into abeyance – such as those threatening Catholic bishops and priests with life imprisonment, and forbidding Catholics to buy or inherit land, led in 1788 to the foundation of an association with the aim of defending the Protestant faith, and in 1780 to an anti-Catholic riot in London instigated by Lord George Gordon. The frequent use of Irish workers as strike-breakers, and the particular anger against Catholic entrepreneurs, meant that the danger of 'papism' could be readily used to inflame spirits. Eighteen of the rioters were hanged, but Gordon remained unscathed.

Similar riotous assemblies in the name of 'church and king', were also sometimes directed against missionary Methodist preachers, who were driven from outlying villages. Again in 1791, the failure of a campaign waged by the Unitarians for the abolition of the Test and Corporation Acts was celebrated in the London streets under the 'church and king' slogan.<sup>34</sup> But 'church and king' riots soon faded into history. When the eighteenth century came to an end, the common people of England could no longer be brought out on the streets in the name of the established church.

It was not just the 'establishment' as such, but also the overwhelming majority of clergy, who functioned as representatives of an order in which every man and woman had their ascribed place in the hierarchy of property as well as that of tribulation. And yet a few bishops of the established church did develop, starting in the early nineteenth century, a new conception of church policy influenced by contemporary rationalism. They abandoned specifically religious claims for personal conduct, and took their new values – to be defended by ecclesiastical practice – from the *secular* discourse of rationalism. This signalled the beginnings of the transformation of the church into a paedagogic moral instance, which was to accompany the transformation of estate self-consciousness into bourgeois respectability.

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<sup>34</sup> Ward 1973, p. 23.

## Chapter Four

### **The Revolutionising of the Forms of Rule of the *Ancien Régime* into Bourgeois State Power**

Until the end of the twentieth century, England still had hereditary nobles with a seat and a vote in the House of Lords. Until 1948, they could demand to be tried by their peers for certain offences. The upper house remains the highest court of appeal in the country, though this function is practised by thirty-five 'law lords' of whom nine must be professional judges. Well into the twentieth century, the Duke of Atholl, with his seat at Blair Castle, retained the right of his ancestors to raise a private army,<sup>1</sup> while Lord Verulam held no less than seven church livings. Until 1926, English law still kept residues of feudal tenure, and if for a long time these had lost any real legal significance, many of the traditions of estate rule outlasted their formal abolition. According to the sixteenth Earl of Pembroke, for example, his family still transmits leases from father to son, and the names of some of his tenants go back in the books of the estate at least as long as his own forefathers – to the time of Henry VIII.<sup>2</sup> In 1924 the Labour prime minister, Ramsay MacDonald, confirmed the custom that knee breeches, buckled shoes and silk

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<sup>1</sup> Perrot 1968, p. 55.

<sup>2</sup> Perrot 1968, p. 49.

stockings were to be worn at official occasions.<sup>3</sup> In the 1930s, 'lords and gentlemen' could automatically claim precedence, and this is true for lords even today.

Despite numerous residues of the *ancien régime*, which can be seen according to one's political conception as either picturesque or stupid, British society has in the meantime become a bourgeois society, and the form of organisation of generalised power in Great Britain is that of a bourgeois state. The question as to when this change took place has for a long while loomed large in English historiography. With varying degrees of success, it has been ascribed to the 'revolution of 1649', the 'Glorious Revolution' of 1688, the 'great reform' of 1832, and sometimes to the third round of electoral reform of 1884–5. All events have been highlighted by scholars over the years, but while each of them certainly abolished some of the structures of the *ancien régime*, none marked a final end to estate rule. The attempt to set a fixed point in time that is somehow equivalent to the French Revolution has time and again provoked vehement opposition. This is particularly clear with the example of the Reform Bill of 1832. If this was long celebrated as decisive for the political rise of the 'middle classes', i.e. those social groups that English historians locate as above the manual workers and below the aristocracy, and that in other languages are usually referred to as the bourgeoisie, certain scholars have recently begun to consider whether this was not simply a deliberate strategy designed to stabilise estate rule. It is at least the consensus today that the changed composition of Parliament after 1832 in no way ended the political hegemony of the land-owning class.

Historical interpretations that have taken for granted that industrialisation leads to bourgeois society and a bourgeoisified state power, have been confronted in the last two decades with a view of English history which revolves around the persistence of aristocratic hegemony in politics:<sup>4</sup> a connection established in the late nineteenth century between the interests of the aristocracy and finance capital,<sup>5</sup> and a cultural 'gentrification' of the middle class.<sup>6</sup> These factors have been presented as long-term causes of the structural crisis of the

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<sup>3</sup> Abshagen 1938, p. 134.

<sup>4</sup> In particular, Mayer 1981.

<sup>5</sup> In particular, by Anderson 1987.

<sup>6</sup> Among others, Wiener 1982.

English economy in the twentieth century.<sup>7</sup> This analysis serves above all to explain the fact that particular forms of appearance of England's (and Great Britain's) political and social development do not agree with the constructed model of a capitalist society. Argument thus remains on the theoretical terrain that both Whig interpretation and Marxist analysis in turn staked out. If it was previously assumed that capitalists necessarily developed an interest not only in railways, but also in universal suffrage, a modern state bureaucracy, and an end to the personal dominance of the aristocracy in key positions of political power, today's view is that the frequent presence of politicians with noble titles is evidence of the persistence of the *ancien régime*, while industrialists with a penchant to the neo-Gothic are comparatively less inclined to invest than those of their thoroughly modern class colleagues.

There are several reasons why the search for a precise transition date in England from the *ancien régime* to bourgeois state power is misleading. The most important of these can be summarised as follows.

First of all, beginnings of a separation of politics and economics in England already go back several centuries. It is true that some guilds and corporations managed to defend their state-sanctioned privileges through to the late nineteenth century, while certain officials, such as coroners, retained much of their traditional character of a private exploitation of centralised power. But as a whole, the development of capitalist relations of production under the English *ancien régime* was scarcely hindered by traditional forms of rule.

The further that capitalist relations of production expanded in England, the more clearly were forms of appropriation through power integrated into and subordinated to structures of market competition. The surviving structures of the *ancien régime* thereby became structures of *political* power. Personal rule no longer structured the entire social system, but only an increasingly distinct realm of *politics*. With the far-reaching dissolution of personal royal power, there arose a public state power that opened up within estate limitations. Exclusion from the 'political nation' was to a certain degree legally founded, but above all it was socially sanctioned. Access to participation in the institutionalised forms of the political public sphere was achieved first and foremost by material success and social ascent – i.e. in an individualised form.

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<sup>7</sup> Wiener 1982; Anderson 1987.

Only when those who lived from the work of their hands managed to develop and organise their shared hopes for improvement in their conditions of life by a different kind of politics, did a fundamental criticism of the structures of the limited political sphere and the individualised forms of rising into it indispensably arise. Members of those middle-class groups whose strategies of ascent to high office came into conflict with the persistence of privilege also adhered to the political radicalism of the late eighteenth and early nineteenth century. Temporarily, even factory-owners, bankers and industrialists saw the realisation of the demands of political radicalism as indispensable, in order to put an end to the state favouring of agricultural interests. But as soon as limited reforms were carried through, and the economic (!) hegemony of agricultural capital began to decline, the supporting groups of the industrialisation process came round to accept a certain restriction on rights of participation: traditional practices of handling social conflicts, and aristocratic representation of national interests, appeared largely reconcilable with their own interests of appropriation. They abandoned the project of abolishing every remnant of the *ancien régime* and establishing 'genuine' bourgeois institutions in its place. They have subsequently been reproached for undermining in the long run the dynamic opportunities of English capitalism. But this argument appeals to purely theoretical (!) notions of a bourgeois society, and neglects to analyse the application of traditional ways of dealing with capitalistically produced crisis as particular forms of a bourgeois society. This theoretical neglect is also characteristic of all those approaches that work with the concept of 'disguise', assuming as they do not simply a strategic position of the 'middle classes' outside the hegemonial political discourse, but a model of 'proper' bourgeois forms.<sup>8</sup>

Secondly, the specific form of capitalisation tells against setting a definite date for the end of the *ancien régime* in England. In this country, capitalist relations of production initially arose above all in the agricultural sector. In the course of this – uncontested – structural change, the prospects for small peasants were to a large extent destroyed, but those for their former lords were certainly not. The latter generally became in the course of time agricultural capitalists. The richest of their number frequently went on to invest in other

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<sup>8</sup> On this, see Nicholls 1988, p. 48.

branches of production, notably mining. This means, however, that in England the aristocracy, i.e. the leading strata of the ruling estates of the *ancien régime*, were the leading representatives of the dominant capitalist fraction at the beginning of capitalist development. Given the persistence of the forms of rule of the *ancien régime*, the landed nobility as members of a capitalist class enjoyed special advantages of status and preferential involvement in political decision-making. They may sometimes have worn knee breeches and court shoes, but they could still be just as 'bourgeois' as the Labour prime minister who later emulated them.

The fact that the first economically hegemonic fraction of capital was represented by individuals who chiefly hailed from and still belonged to the privileged estates, was the material precondition for the development of a bourgeois nationalism with an aristocratic veneer. But it is not outward appearance that indicates the social character of state power, rather its relationship to society. If a political public abolishes the estate restriction of generalised state power – whether in legalised forms, or in a structural change simply accomplished *de facto* –, neither aristocratic pomp nor the number of nobles in a government changes anything in the bourgeois character of this state power.

The third objection against a fixed date relates to the political form of this structural revolution. The transformation of the public power from an estate one to that of a bourgeois society made the abolition of structures of possession of office indispensable even in England. But since the actual government of the country was effected far less by an 'apparatus' of the central government than by representatives who were in the main locally appointed from locally dominant families (later on, dominant strata), the process of transformation did not take the form of constitutional controversies, but rather of social conflicts fought out at a local level. The two results of these conflicts were the gradual separation of the role of Justice of the Peace from a privilege of the landed nobility, and the development of additional institutions in which the new needs of regulation could be elaborated. Such new institutions, especially the commissions handling special problems of urban administration, emerged principally as a supplement to earlier institutions of rule, rather as their replacement. The overlaying of government authority, therefore, despite an increasing process of centralisation, proceeded variously and at varying pace at the local level. Similar lack of synchrony is also found in the various realms of centralised power. Particular examples of this will be

shown in the following section. Their local and sectoral dissynchronies mean that they are not obvious as fundamental alterations in the organisation of political power. The final abolition of personal rule in England occurred only around the First World War. But well before this, the monarchy, the culturally hegemonic idealisation of the landed nobility, and the practice of negotiating social conflicts rather than fighting them out, had been redefined by the structures of a capitalist society.

### **a. Opening up of centralised power of office**

When the Duke of York took command of the horse guards in 1796, he informed the field chaplains that they must either perform their office in person in future, or they would be pensioned off. All but two of their number accepted the modest pension that was offered. Conclusions can be drawn from this as to the religious guidance of the guards regiments at this date. The fact that in 1807, chaplains serving overseas still received a salary equivalent to that of a major, on the express instruction that they were obliged to serve in person, indicates that things did not change so rapidly.<sup>9</sup>

At the same time, comparatively large sums (an average of £8,400 per year in 1798–1800, £13,300 in 1813–15) were paid in police salaries. Police services at this time were a kind of tradable good. They were rewarded by the distribution of fines, confiscations, and the award of costs, as well as by regular wages.<sup>10</sup> Police service was thus a publicly organised private speculation on the proceeds from successful prosecution of law-breakers.<sup>11</sup> Successful investigation was permitted with no questions asked, even by private contractors.<sup>12</sup>

When Nassau Senior resigned from his Oxford chair in 1829, Richard What-eley was elected to succeed him. He had no appropriate qualification, but was convinced that as a prominent Christian he would succeed in freeing economics 'permanently from its bad reputation'. When Whateley was subsequently appointed archbishop of Dublin, Frederick Denison Maurice had himself proposed for the chair, arguing that

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<sup>9</sup> Fortescue 1976, Volume 10, pp. 198–9.

<sup>10</sup> Radzinowics 1956, Volume 2, pp. 70–1, 235.

<sup>11</sup> Radzinowics 1956, Volume 2, p. 264.

<sup>12</sup> Radzinowics 1956, Volume 2, p. 257.

Political economy is not the foundation of morals and politics, but must have them for its foundation or be worth nothing.

Maurice had still less in the way of pertinent qualification than Whateley, but believed he would soon be able to pick up the details of the subject, even if he was not familiar with its underlying principles. Maurice was rejected, not on the grounds of his deficient professional qualification, rather because of his particular theological interpretation of baptism.<sup>13</sup>

Examples such as these can be readily multiplied in almost every kind of official position. Typical cases are fictionally depicted in Henry Fielding's novel *Amelia*, Charles Dickens's impressive portrayal of the judicial system in *Bleak House* and of the chase after posts in *Little Dorrit*, as well as Anthony Trollope's satirical chapters on administrative reform in *The Three Clerks*. They show the continuity – stressed especially by G.E. Aylmer – of a form of government in which power of office meant first and foremost a private right and interest in possession, while access to this possession was itself possible only through patronage and payment of a price. There were regular sinecures of all kinds, and a widespread pluralism of offices along with the practice of substitution that went together with this, while for offices that were rewarded chiefly with a salary or fee, the office could be openly practised in the best way to yield income for the office-holder. All these forms outlasted not only the eighteenth century, but even the first decades of the nineteenth. Yet despite all this, from 1688 – or more precisely, from the wars of the 1690s – there was a steady opening up of centralised power of office within estate confines. Access to office was still by way of patronage, but the practice of specific forms of office was gradually controlled more clearly on the basis of Parliament's financial authority and changed ideas within the (estate) public sphere. The most important causes of this development were the financial and organisational requirements of the wars to which the English government committed itself, initially in defence of the Protestant dynasty (against the French government that supported the house of Stuart), later to defend and expand its newly acquired position of international power.

The personnel of the English government (including Justices of the Peace) remained numerically fairly small.<sup>14</sup> In the course of the eighteenth century,

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<sup>13</sup> Cited after Hilton 1977, p. 308.

<sup>14</sup> See Brewer 1989, pp. 64–9.



*de facto* practices of advance emerged, alongside more or less formalised rules of procedure. Yet it is too early to speak of a regular bureaucracy at this time. What was much rather involved was the development of that mixture – generally characteristic of England/Great Britain – of new and relatively rationally organised institutions along with forms of private exploitation of centralised appropriation that persisted almost unchanged. It was not unusual for this mixture even to be embodied in particular individuals, such as those officials who performed specialised work in a particular department for a regular but low salary, but were able to supplement their income by the simultaneous possession of a further office that they either did not practise at all, or had a substitute perform on their behalf. In his analysis of the formation of a ‘fiscal-military’ state, John Brewer stresses how in the administrative system of eighteenth-century Britain, traditional clientelism was integrated into a new kind of institutional loyalty.<sup>15</sup> This led to a situation, according to Brewer, in the above-mentioned conflicts over government reform that developed in relation to the American War of Independence, in which not only was the influence of the crown over Parliament successfully limited, but demands were raised from within the administration itself for the restriction of sinecures and pluralism, and for a general rationalisation.<sup>16</sup> The prospects of success of such demands remained limited, so long as the path of patronage remained open and no professional civil service developed. Yet the political standpoint that historians (following a contemporary usage) summarise under the notion of ‘country’, generally de-legitimised the possession character of office power in the course of the eighteenth century.

Public criticism of this kind, which was also expressed in Parliament, was impelled by the fact that both military expansion and the extension of the credit market required a rise in the tax burden by way of security. This meant in the first instance a rise in existing taxes and the introduction of new indirect ones. (The fiscal importance of taxes on landed property, on the other hand, fell.) Both the level and form of taxation had the effect of developing among members of the privileged estates an interest in the control of both expenditure and offices, unless they directly profited from these. This generalised interest – or, to put it differently, the absence of tax privileges for the English

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<sup>15</sup> Brewer 1989, p. 85.

<sup>16</sup> *Ibid.*

nobility – was the most important material basis for the political standpoint that was known as ‘country’. This involved a fundamental criticism of all that waste, corruption and ‘interestedness’ (in the contemporary sense of the term) that made up the ‘court’ and was ascribed to it. The manifold conditions that were placed on fiscal legislation responded to this developing public opinion within the estates, and thus to the preconditions for the support of the government in the counties. In this way there arose in England a specific *dynamic for the rationalisation of centralised power of office*. This proceeded less by way of the formation of a professional civil service than by estate appropriation of control of over centralised power of office. Gradually – the tendencies are structurally decisive, but should not be overestimated –, this centralised power became a component of the government apparatus, which could be instrumentalised for estate interests.

A fine example of this process is given by E.P. Thompson. Until 1777, a certain Ruperta Howe managed not only to escape royal control of her office as ‘lieutenant of the forest’, but in particular the obligation that went with it to supply wood at low cost for the fleet. When she sought however to continue this practice with the justification that she could obtain higher prices for the wood at public auctions, she provoked an investigation of her conduct. The ‘land revenue commissioners’ established that in the course of the eighteenth century, the crown had failed to derive any profit from forestry, but on the contrary had incurred net costs (for example the payment of wardens). The total costs came to more than £8,000, whilst all the proceeds had been kept by the lieutenants of the time.

The original grant (they noted) is not a grant of the forest, but of an office to which duties are annexed, as well as emoluments, and these duties have been increased. [The lack of any controls had led to a situation in which] the Grantees of Offices, being left so long in the undisturbed possession of the profits of what has been entrusted to their care, are gradually led to look upon the property itself as their own.<sup>17</sup>

The rationalisation of the royal administration involved a process of expropriation which in retrospect is easily undervalued. For the institutionalising of private interest that characterised power of office under the *ancien régime* was

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<sup>17</sup> Thompson 1975, p. 243.

generally de-legitimised, and in some cases legally abolished. Initially this process, however far-reaching, took place within an estate limitation. The final opening up and instrumentalising of centralised power of office only resulted in the course of the nineteenth century. It had three causes in particular.

The first of these was the organised distribution of a critique of the estate character of rule (cf. Section c). This was directed against the restricted right of participation in centralised power, and – what is immediately relevant here – its private exploitation. To describe all the various forms of enrichment and practice in the private interest, the slogan of ‘old corruption’ was coined.

This ‘old corruption’ has many similarities in content with that of ‘feudalism’ or the ‘aristocracy’ in the French Revolution. These notions all summarised what was to be abolished. The so-called ‘black books’ that John Wade repeatedly published should not be forgotten (cf. in particular that of 1832). These denounced practically everything: the pluralism of clerical and secular offices, the practice of substitution along with such pure sinecures as the Chief Cupbearer and the Sergeant of the Silver Scullery. Oligarchical town councils, judges with fixed incomes, were all challenged by the standard of the public good. Though the reforms of the 1830s were far from destroying patronage, many sinecures were indeed abolished at this time, while the reform of town councils swept away the old forms of oligarchic urban rule and church reform shook up the practice of pluralism.

The campaigns against ‘old corruption’ were directed against a world in which members of the privileged estates could count on making successful use of influential connections. If this world could be destroyed by the reforms then undertaken, it was because the political leading strata of the nobility had other sources of income that compensated them for their own material loss (see below, Section c).

A further cause of the formation of a bureaucratic state apparatus arose from the development of political party structures. The traditional factions had principally hinged around persons, but they developed in the nineteenth century into organisations that pursued a definite political programme and expected their representatives in the government to advance this. Indirectly, this also promoted bureaucratisation. For the content of politicians’ obligations demanded the formation of a basically neutral staff of civil servants to support the ministers. Already in the 1830s, therefore, the office-holder as indi-

vidual retreated into the background in favour of the function of the office. The formalisation of official careers, however, still remained quite limited.<sup>18</sup>

In organisational terms, the de-personalisation of office can be seen in the abolition of those 'boards' on which honorary members had also sat. In their place, ministries were now established that were responsible to Parliament. In 1832 there were twelve ministries and sixteen boards. In the subsequent twenty years, three of these boards were replaced by ministries. In the same period, however, fifteen new boards were set up, only two of which were rapidly transformed into ministries (if still under the same name). The large boards that were not very effective, their members still being directly oriented to the press and their relationship to Parliament less than clear, were increasingly, so far as they remained in existence, subordinated to the control of ministers. The Poor Law Board was one of the most important exceptions to this change.<sup>19</sup>

The third cause of the formation of a public administration, and indeed ultimately the decisive one, arose from the practical criticism of patronage as a system of selection. This was supported by all those who sought their own ascent to high position, or that of their sons, and the new legitimisation pattern of individual competitive achievement received an impulse from the campaigns against 'old corruption'. It was against this background that reformers within the administration were able to succeed.<sup>20</sup>

Up till this time, though there were no formalised barriers to social ascent in England, high positions were *de facto* almost exclusively reserved to the sons and relatives of nobles or already established bourgeois families of officials. For many sons from families of the middle and lower landed nobility, a royal office offered almost the only career opportunity appropriate to their station, as not every noble family was in a position to spend the £600 or £700 required for apprenticeship in one of the great London merchant houses. Entry into the service of state or church, on the other hand, was free – at least in formal terms.<sup>21</sup> In view of the prevailing practices of recruitment, only a few social

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<sup>18</sup> Clark 1973, pp. 67–76.

<sup>19</sup> Parris 1969, pp. 83–97.

<sup>20</sup> See here Perkin 1972, pp. 334–9.

<sup>21</sup> Cf. Hughes 1975, p. 199.

outsiders had the opportunity in the eighteenth century of acquiring a useful office. All the less so, in that the total number of positions was small.

As an illustration of this state of affairs, Edward Hughes indicated how in 1745, i.e. a point in time when Great Britain had already set out to conquer a world empire, the War Ministry and the Admiralty together employed twenty-one officials, and the Board of Trade ten.<sup>22</sup>

Only with the relative expansion of administrative posts as a result of the great reform measures of the 1830s did new social groups find their prospects of access potentially expanded. The struggle to realise such prospects took place in the form of the criticism of patronage practices and the demand for a formalisation of conditions of access.

To promote the professionalisation of government officials, proofs of competence were introduced for the administration of India in the 1830s, followed by the home civil service in the 1850s. In 1870 success in the entrance examination became a compulsory condition for acceptance. The occupation of the public service by patronage was thus *formally* ended.<sup>23</sup>

More precisely, in place of the former practice of recruitment, a system was introduced, the effect of which was to both influence and qualify the results of formalised controls of competence. For with the social expansion of strategies of ascent by way of manifest talent, the use of personal connections lost its official legitimacy, but not altogether its effect. Estate hegemony through access to positions in the centralised power was transformed by administrative reforms and public criticism into the *de facto* preference for alumni of the 'public schools'. The new system had little to do with equality, but estate rule was now replaced by the inequalities of a class society.

#### a.1. *Structural change in the instruments of public power*

The development of the English legal and judicial system does not really lend itself to summary analysis. In connection with the practice of the Justices of the Peace, which was formally one of interpretation but in actual fact one of law-making, at least one example of the transformation of the law will be discussed below (cf. Chapter 4, Section b). I will therefore confine myself in the

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<sup>22</sup> Hughes 1975, p. 197.

<sup>23</sup> Thomson 1950, p. 131.

present discussion to the exemplary significance of developments in the realm of armed force. For long periods of time, this was both the instrument of a power politics pursued increasingly in the interest of capital and – bourgeois – nationalism, and a refuge for the remnants of estate privileges. This latter aspect took different forms in the different branches of organisation.

The navy, which was the foundation of England's supremacy on the high seas, remained typical of the *ancien régime*. In its mixture of private and 'public' recruitment, the inadequate organisational and instructional competence of the Admiralty, the award of officer commissions and captaincies on the basis of patronage, the independence of captains and the almost total neglect of the living and working conditions of the sailors, this was a fighting force in which noble naval officers possessed far-reaching disposal over an instrument of royal rule. Reforms that were implemented in practice placed formal limitations on this power of disposal. But how deeply anchored the traditional practices were became clear when in the late eighteenth century one government commission after another struggled in vain with the regulation of naval finance and procurement, the restriction of private patronage over officer and cadet positions, and the need to establish a pension fund to facilitate the retirement of officers no longer capable of service.<sup>24</sup>

More stubbornly than parliamentary reports, the mutinies that broke out in 1797 in several quite separate places made clear to the lords of the Admiralty the necessity of reform. Certain changes were made; the provision that from 1805 no further officers should be appointed who were not at least fifteen years of age may have been based on soldiers' demands for the removal of incompetent and terrorising officers. But control over the equipping of ships, the engagement of sailors, and the practices of captains and ships' officers, remained limited. Even publicly expressed demands for a reform of the navy had little chance against the political anchorage of the 'vested interests' of the naval lords.<sup>25</sup> At the end of the Napoleonic wars, reform demands of this kind had the wind taken out of their sails, in so far as over a hundred thousand men were discharged from the navy, which was reduced in manpower to a strength of around twenty thousand.<sup>26</sup>

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<sup>24</sup> Rodger 1979, Chapter 5.

<sup>25</sup> Cf. Thomson 1978, esp. Chapter 6.

<sup>26</sup> Rodger 1979, p. 94.

Just as in other realms of supposedly public power, attempts were made in 1832 and 1866 to restructure the navy by legislative reform. These reforms narrowed the opportunities for private possession and eliminated posts without definite service obligations. Control procedures and an unambiguous structure of command were introduced. In the course of the general criticism of 'old corruption', admirals were forbidden to award positions to more than two members of the same family. In 1848, the number of cadets taken on was limited to a hundred each year, 72 of whom the Admiralty directly employed.<sup>27</sup> But this changed nothing in the way that officer positions were occupied almost exclusively by members of the nobility, or at least by individuals with noble sponsors. It was, finally, the preconditions of military competition and technical development that struck a breach in the estate monopoly on recruitment. From the 1840s, non-noble candidates were sometimes able to rise even without enjoying the patronage of a great lord – in particular by specialising in the less prestigious steamships.

After the sobering experiences of the Crimean War, not only was the attempt made to control personnel policy more strictly, but former officers were also compelled to appoint (thoroughly non-noble) ship's engineers to officer positions and thus recognise them as 'equals'.<sup>28</sup> But the favouring of particular candidates for high position still continued. *The Times* could still describe the Admiralty at the end of the nineteenth century as 'a very old and very peculiar corporation',<sup>29</sup> and it was only in the course of the First World War that its corporate authority was finally subordinated to decision-makers who had to legitimate themselves politically. Internal changes were then finally undertaken that made the navy a genuine instrument of the public power.

The 'militia' of the eighteenth century was almost completely a local instrument. The dependence of its deployment on the agreement of the local ruling families to the aims in question was a long-established requirement, as was the de facto claim of the most powerful noble families in a county to the lord lieutenancy, which generally went together with command of the militia. Since the militia was financed from agricultural taxation, the idea still prevailed

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<sup>27</sup> Bartlett 1963, p. 317.

<sup>28</sup> Bartlett 1963, p. 321.

<sup>29</sup> Rodger 1979, p. 116.

that a fighting force predominantly paid for by the landowners amounted to their corporate property. The nobility distributed officer posts among themselves in accordance with social rank, and liked to parade with swords and ribbons. Many commanders were interested in the training and equipment of their militia regiments, though others were more concerned with appearance, and bothered little if at all with military effectiveness. All of them, however, in Fortescue's words

were to some extent petty Sovereigns, with the Militia for their army. They were attached to the force, frequently spent very large sums upon it, and easily grew to regard it as their own. Their officers shared their views, and hence in many cases a regiment of Militia became a very exclusive country-club, with a just pride in itself....<sup>30</sup>

This is clearly a question of social arrangements that would not have been possible without the participation of the local population. For, whilst the agricultural taxes were indeed paid principally by the well-to-do landed proprietors, the remaining rural population were affected not only by their practice of appropriation, but also by the compulsion to serve in the militia or the obligation to contribute to the maintenance of militia members' families. Many had still much higher financial burdens, in that they had to pay for a substitute, generally a poor devil. The new estate conception of the militia ended the potential for local armed resistance by the nobility against the crown, while it also sharpened local antagonism between the nobility and the lower orders.

In the French revolutionary wars at the end of the eighteenth century, partly on the proposal of militia commanders<sup>31</sup> but partly also against their vehement protests,<sup>32</sup> militia regiments were integrated into the standing army. In 1808 this *renunciation by the nobility of a locally generalised estate possession of armed force* was given legislative confirmation in favour of generalised estate interests that transcended local conditions.

The further decline of the militia is unimportant in the present connection. It was bound up with the creation of a regular police force and the requirement of military professionalism, which neither the militia officers nor their

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<sup>30</sup> Fortescue 1976, Volume 4, p. 884.

<sup>31</sup> Western 1965, p. 439.

<sup>32</sup> Fortescue 1976, Volume 4, p. 884.



rank and file could meet – not that they attempted to do so. In the nineteenth century, the ruling estates were no longer politically able to maintain the non-professional leadership of military forces. The militia thus became one of those means of estate rule which the formerly dominant estates of England simply abandoned in the course of time. It persisted in a more restricted form, but rapidly lost its significance for the reproduction of estate rule.

Until 1871, the sale of officer commissions in the English army remained legal. Both entry into a particular regiment and promotion to higher ranks were regularly traded. There were non-tradable positions and non-tradable promotions, official limitations of price and a rule designed to ensure that higher-rank positions coming free were offered on a basis of seniority. The commercial character of officer commissions was especially apparent in the fact that at the end of his active career an officer not only sold his post (to finance his retirement) but also went over to half pay, on which basis he could still obtain further promotions and rise in the military hierarchy. The number of senior officers available for service was considerably reduced in this way.

The commercial character of officer commissions shows how in the Victorian army the personal demands of officers still triumphed over principles of military rationality. Estate monopolisation of these structures of possession, however, did not continue unchallenged. Unambiguous estate monopolisation gave way to a phase of successful defence of estate-based cultural hegemony. For admission to the market for officer commissions presupposed habitual forms of behaviour deriving from the hierarchical structure and values of 'landed society'. This did not exclude the sons of wealthy farmers and better-off yeomen from access to officer commissions, and the offspring of the socially accepted professional orders also had little difficulty. Even young men from trading and manufacturing families could purchase officer commissions, as long as their families had demonstrated willingness to integrate into the norms of landed society by purchasing landed estates themselves. In this latter case, moreover, an officer career offered one of the most successful strategies to obtain the desired social recognition. What was at issue in access to the officer corps was a preference in selection that – if we leave aside here the rare promotions from the rank-and-file – in practice excluded to a large extent the sons of the few well-off urban bourgeois families who applied. Access to the army was by way of the 'landed interests'. If a man had access to these, then he likewise had access to the officer corps. The fact that the estate pattern of

selection needed no formalisation became clear when the commercial character of officer ranks was legally abolished. For this did not in any way change the social pattern of recruitment, which actually became more rigid. In place of origin there was now the verdict of education. This had the *de facto* effect of confining access very largely to alumni of certain 'public schools' (the so-called 'Clarendon schools') or the Sandhurst military academy. As Gwyn Harries-Jenkins put it in his outstanding work on the army in Victorian society, the kinship structure and the material structure of the landed interests came together in the last quarter of the nineteenth century in the 'old school tie' connection that is so characteristic of English society.<sup>33</sup> The code of 'honour' and *esprit de corps* that prevailed in both the public schools and the army was reproduced in the selection pattern of officer recruitment.<sup>34</sup>

It was not rare, for example, for English officers in Egypt to take with them into the desert as many beasts of burden as they needed to furnish their tents with silver, crystal, and white linen. In the late nineteenth century, every British officer would spend two days a week hunting, and similar practices are still reported from the 1930s. At the same time, there were also examples of extremely honourable personal courage. These however often corresponded more to inherited ideas than to purely military demands. In 1878, R. Cunningham could write:

The upper classes betake themselves to the army for exercise, companionship and enjoyment. War is the occupation of the nobility and gentry.<sup>35</sup>

Two political factors favoured the long persistence of *ancien-régime* structures in the army. The first of these resulted from the military tasks for which the army was deployed. Though the Victorian army was occasionally engaged as a police force in the United Kingdom itself, it served overwhelmingly as one in the colonies. In both cases, the forces it confronted were militarily inferior. It could still fight in squares in colonial wars, when this practice had long been abandoned in European battles because of advances in artillery. Few officers in the English army, accordingly, were moved by their experiences to engage with the theoretical principles of their profession. With a few sig-

<sup>33</sup> Harries-Jenkins 1977, p. 96.

<sup>34</sup> Ibid.

<sup>35</sup> Cunningham 1878, p. 328; cited after Harries-Jenkins 1977, p. 56.

nificant exceptions they remained aristocratic amateurs. The almost complete lack of military-scientific literature in the Victorian era is evidence of this situation. This rejection of professionalisation, moreover, drew a culturally widespread justification from the traditional distrust of a standing army. The second structural precondition for the long tradition of *ancien-régime* military organisation lay in the far-reaching social unity of the English ruling estate. Officers were well integrated into this. Through to the end of the nineteenth century, the House of Commons also had a considerable proportion of officer Members, including some who were still on active service.<sup>36</sup> The nobility often moved between military and civilian service, sometimes several times: they were appointed Justices of the Peace or police commanders. But above all, they did not have to see their military service as a 'profession', which would have distinguished them from other aristocrats. Almost all of them remained landed nobles first and foremost. As against the situation of the Prussian military in the nineteenth century, in which officers formed a professional estate, albeit one which had its material support in large-scale landed property, the officers of the English army had no occasion to develop a military self-consciousness rooted in their profession. The English officer corps was quite simply an aristocratic establishment, even if not every officer could boast an 'aristocratic' origin. The high proportion of noble volunteers during the First World War was an expression of this tradition.<sup>37</sup>

The dissolution of the organisational forms of this *ancien-régime* army had four very different causes.

The first of these arose from the capitalisation of agricultural production and the urbanisation of the working population. The traditional coincidence between hierarchical structures on the land and the structure of command in the army had formed the most important basis of military discipline – a situation that was frequently stressed to emphasise the suitability of the traditional pattern of officer recruitment –, but with proletarianisation this reproduction of the estate-hierarchical matrix of work and life in the military was reduced to simple social difference. The spread of Methodism among the rank and file, which J.W. Fortescue has indicated,<sup>38</sup> can be taken as indication

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<sup>36</sup> Cf. Harries-Jenkins 1977, pp. 220–5.

<sup>37</sup> Winter 1978, p. 30.

<sup>38</sup> Fortescue 1976, Volume 10, p. 198.

of a widespread fundamental criticism of the prevailing norms of the army. The relationship of personal possession that officers had towards the army was not abolished by this, but its structural preconditions were to a degree undermined.

A further process of dissolution resulted from the depersonalisation of monarchical power. It is true that monarchs instructed officials as to their service, and in this way restricted personal decision power even in the army. But it was only with the efforts of the House of Commons to bring the crown's prerogative under its control and eventually to reduce this, that there resulted the administrative regularisation and prescriptions of qualification – in some respects often hardly noticeable – that taken together gradually amounted to a practical limitation on the individual prospects for gain of officer service.

The bureaucratisation of the army did not abolish the personal character of officer service. What it did was restrict this piecemeal.<sup>39</sup> This development reached a temporary peak in the – at least intended – subordination of the army high command to political appointees in 1895. In the First World War, this arrangement was further reinforced.

The third structural precondition for the end of the *ancien régime* in the English army resulted from the general decline of estate rule in the late nineteenth century. With changes in the conditions for election to Parliament, the introduction of elected county councils and the disempowerment of Justices of the Peace, access to key positions of local and centralised power became harder for the landed nobility in general and for officers in particular, so that the latter had to resort increasingly to their military service as the foundation of their social status. As Harries-Jenkins explains, though there were many things that this did not disturb, including a distrust of 'politicians' who no longer automatically 'belonged' socially, it facilitated the rise of the view that officers were not just better informed about military affairs, but had an exclusive knowledge of these.<sup>40</sup> This did not lead to militarism, but it did lead to a professionalism that in other cultural conditions is one of the most important structural preconditions for this.

The *ancien régime* in the army was finally ended by the demands of the First World War. Already in the Boer War, the relative autonomy of individual

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<sup>39</sup> Guy 1985, p. 53.

<sup>40</sup> Harries-Jenkins 1977, p. 271.

regiments, which made tactical co-ordination not just unusual but almost impossible, had accelerated the defeat of the British forces, combined as it was with completely outdated forms of training and the military incompetence of most officers. Certain reforms were subsequently undertaken. But it was only during the First World War that a fundamental restructuring was carried through. During the first years of the War, tens of thousands of volunteers from the United Kingdom died a death that was quite useless even from a military point of view, when infantry regiments were ordered to advance in line against machine-guns and barbed-wire defences.<sup>41</sup> Many junior officers followed the army's traditional code of honour by leading their soldiers forward into a hail of bullets. The *ancien régime* in the English army came to a bloody end before the trenches of the German enemy. The reforms that were now introduced aimed at a military organisation in which the rank and file became unthinking tools. Bayonet training was the principal means of effecting this: it served on the one hand to recall the 'glorious' victories of the old army, but first and foremost as a means of discipline.<sup>42</sup>

The rigorous drill of the new English army was at the same time the social form in which the diverse social origin of the First World War volunteers was subsumed to military rationality. There was still social favouritism in the English army, and certain behavioural practices of the *ancien régime* remained in the officer corps. But, in place of the 'old army', a national military organisation grew up in the First World War.

## **b. Separation of local power of office from the privileges of the landed nobility**

We have explained above (Chapter 3, Section b) how in the eighteenth century local disposal over generalised means of power came into the possession of the Justices of the Peace. Certain additions to this summary thesis are now required. The institution of Justices of the Peace was in a certain sense extensive, covering both town and country. But in both cases, though especially in the towns, there were also other institutions of government, and very different ones.

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<sup>41</sup> Gill and Dallas 1985, pp. 32–3.

<sup>42</sup> Winter 1979, pp. 40–1.

The notion of 'town' was applied in the eighteenth century to settlements of a certain size and with notable non-agricultural manufacturing or commercial activity. Many places that looked like towns, however, were no more than villages as far as their legal constitution went. Manchester, Birmingham and Sheffield were the most notorious examples of these. Alongside these town-villages were plain 'market towns'. These had market rights, but no other institutions of urban government. Only boroughs or incorporated towns that were sufficiently rich had been able to acquire the right of self-government. (This sense of 'borough' should not be confused with 'parliamentary borough', the term for places or areas that had representation in Parliament, but did not necessarily enjoy local self-government.) Many incorporated towns, such as York, had lost much of their former importance by the eighteenth century, whereas places without any urban form of local government, such as Manchester, were developing into important economic centres. The extent of institutionalised social exclusion, moreover, varied between the so-called 'open' and 'closed' corporations. In the latter there was generally no election, but officers were appointed by cooption and for life. In the non-incorporated towns – which legally were still villages – administration frequently remained as it always had done with the 'lord of the manor' (in legal terms, the 'feudal' lord of the land on which the town had grown up). The traditional holders of the land were not in all cases still involved in local rule. In some cases, such as Birmingham, while there were indeed feudal institutions such as the 'court leet' held by the landlords, the town was in actual fact now ruled by its dominant families; in other cases, such as Manchester, in the eighteenth century the lord of the manor still appointed some of the officials and levied a toll on the market. In still other non-incorporated towns, there had been either a far-reaching takeover of local government by church authorities (the unit of administration here being the vestry), or else by representative boards or 'trusts' that were organised by the church. Here as well, there were so-called 'open' and 'closed' forms, the latter yielding nothing to their secular counterparts in terms of social exclusivity.

In the present context, three points are important. First of all, oligarchic structures were dominant everywhere in the eighteenth century. The well-to-do citizenry of the towns were in general no champions of expanded participation. Secondly, the form of legal constitution of a town was not decisive for its economic development. (This situation should not be surprising, for

with increasing commercialisation and the strictly competitive structure of reproduction that ensued from this, the specific form of personal rule lost its importance for production and circulation.) Thirdly, a large part of industrial production initially developed outside of the towns. Thus it is not as if the new challenges to the practice of local rule were raised first of all in an urban context.

We shall confine ourselves here to the general tendencies of structural change. The most important of these was the gradual *disempowerment of the Justices of the Peace*. This took place in three ways. Already in the eighteenth century, several *ad hoc* commissions were established in towns, responsible for water supply, sanitary arrangements, building regulations etc. These 'improvement commissions' often included 'new' men, representing interest groups that had formerly been excluded from local government positions. (In many towns, however, these new tasks were still performed for better or worse by the Justices of the Peace.) So long as the greater part of the English population lived on the land, both the structural importance of the new forms of administration and the numerical expansion of the existing ruling strata by 'new' men remained limited. In 1801, 30 per cent of the English population lived in towns, but, by the middle of the century, the urban population had overtaken the rural. This process of urbanisation was *one* of the social forms in which the decline of the role that Justices of the Peace had played for centuries in the government of England occurred.

A second strand in this change was an institutional one. The reform of local administration in 1835 affected 178 towns (though not London). For the 'corporation boroughs' this law scarcely meant any change of administration, but rather a change of personnel. The electoral influence of the oligarchy and noble patrons was broken – not least in the interest of the governing Whigs. This legislation hardly gave rise right away to new tasks or forms of administration.<sup>43</sup> But the greater openness of local government practice that the new legislation introduced did facilitate the transformation of growing organisational problems such as water supply and sewerage, and the pressing social questions, into new defining tasks and organisational forms of administration. In many cases, the administrative change was based on a so-called 'private bill' that the local authority promoted in Parliament.

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<sup>43</sup> Alexander 1985, p. 7.

Development in the towns still took very varied paths. According to material and social circumstances, traditional structures of influence and the initiative of individuals or small groups, conflicts arose that led to new structures of administration. In all cases the old ruling strata and the displaced interests conceded a part of their privileges and competences, partly because new social groups insisted on representation, partly because additional institutions were created. This *local process of revolutionising the system of generalised power* was speeded by the processes of centralisation. These were an important structural element in the dissolution of the English *ancien régime*. Local institutions of estate rule were not necessarily abolished, but by their integration into a centralised state they were transformed into elements of a bourgeois organisation of political power. Since the central government claimed increased powers and did in fact institutionalise these, it degraded former institutions of *rule* into instances of *administration*. Nowhere is this more clear than in the office of Justice of the Peace.

The Justices, as we have several times mentioned above, served in an honorary capacity, acting in the interest of those whose respect they sought to maintain. The 'peace commissions' were unquestionably an institution of *rule*. At the quarter sessions the Justices laid down the law, though this was only to a very limited degree the application of generalised laws. What in formal terms appeared simply as the interpretation of such laws, was by and large far more the regular local making of law – understood in this sense as not a socially neutral instrument of government, but as a formalisation of strategies of rule.

In the course of the nineteenth century, the local ruling strata and their representatives were deprived of this practice of rule, which persisted only in limited spheres. By the institutionalising of controls over local government, by strengthened legislation of government practice, by the establishment of comparatively professionalised instances of administration and by the – locally varying – creation of additional institutions of local government and administration, the possibilities of personal rule were reduced. The specific stage of depersonalisation, however, can in no case be discerned from the institutional structures alone. Where particular noble families remained economically dominant and cultivated their connections, it sometimes took decades before their actual monopoly in local government could be broken.<sup>44</sup>

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<sup>44</sup> Cf. the contributions in Cannadine (ed.) 1982.



In the countryside, the dissolution of estate rule happened less by institutional change and far more decisively by the transformation of social relations.

Local estate rule had served in England chiefly as a means of *dealing with* social conflict. Open repression was generally not used to assert the generalised appropriation interests of the lords. In England itself, it was principally deployed against those individuals whose behaviour could be criminalised. (The prosecution of poachers was a marginal form of this.) In Ireland and the colonies, however, the practices that developed were far more clearly those of a police state.<sup>45</sup> From the end of the eighteenth century, widespread and steadily more organised social protest began to shake the social basis of this traditional practice of rule. The decision to establish a local police force after the model of the Metropolitan Police meant a recognition that traditional practices were no longer viable. This model was also followed by several large enterprises and later on by the railway companies, who all maintained their own police forces.<sup>46</sup>

With the Chartist movement, the traditional exercise of rule was not just attacked in theory, it was shaken in actual fact. Attempts were made in many places to counter it with traditional means. In cases of unrest, magistrates resorted to a form that had for centuries been anchored in common law, the so-called *posse comitatus*, obliging local inhabitants to engage as special constables. There were sometimes a large number of these – 600 for example in Nottingham in 1811, and as many as 1,500 in Salford, Lancashire in April 1812. In the country districts this procedure was less readily usable. The basis of recruitment of these auxiliary police was above all the urban middle class, a social group that had hardly any equivalent in the countryside.

After 1831, the swearing-in of special constables was the subject of various legislative measures, especially the Municipal Corporation Act of 1835. In the years that followed, this practice was both continued and extended. Workers too were now sworn in, the authorities using the instrument of *posse comitatus* in order to secure the good behaviour of a part of the workforce.<sup>47</sup> In 1848, at the time of the Chartist agitation, London had 170,000 special constables, Manchester more than 10,000 and Liverpool between 3,000 and 4,000,<sup>48</sup> compelled

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<sup>45</sup> Cf. Palmer 1988; Brewer 1989, pp. xviii–xix.

<sup>46</sup> Mather 1959, p. 81.

<sup>47</sup> Ibid.

<sup>48</sup> Mather 1959, p. 84.

by oath to take the side of order. In the course of the century, new social strategies were developed to deal with workers' protests (cf. below Section b.2).

In the countryside, the basis of traditional ruling practice broke down in the last decades of the nineteenth century. From the start of the agrarian crisis of the 1870s, conflict between farmers and landlords intensified, as well as workers' struggles over wages. With the (almost) complete objectification of production and appropriation conditions on the land, the former methods of public-order policy lost their foundation. The traditional form of election also finally collapsed in this way. It was not the social extension of the suffrage but rather the destruction of the traditionally automatic delivery of votes that marked the end of the *ancien régime* of political representation.

In the following section we shall sketch out in more detail the dissolution of traditional estate rule, not with reference to the structures of replacement or expansion of the former ruling strata in personnel terms, but by highlighting two particular areas of local politics.

#### b.1. *The rationalisation of the Poor Law*

In his work on the 'great transformation', by which he meant the rise of the market system, Karl Polanyi devoted an entire chapter to the 'Speenhamland system'. The subsidy of wages out of Poor Law funds that was practised in Speenhamland and elsewhere, prevented, in Polanyi's view, the rise of a labour market for the 'industrial revolution'.<sup>49</sup> This was, therefore, a pre-rational phase of subvention policy, and ended according to Polanyi with the New Poor Law of 1834.<sup>50</sup> This conception is problematic in a number of ways.

First of all, it reproduces the prejudices of the time that assumed that the prospect of support would make workers reluctant to leave their home and seek work elsewhere to provide for themselves and if possible their families. There is no evidence for this situation. It was rather the case that, despite the uncertainty of finding work elsewhere and in this way establishing new residence (according to an already practised regulation formalised in 1795), very many of the poor did leave their place of birth. Precisely this *de facto* mobility of labour formed one of the key reasons for the crisis of the old Poor Law dating

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<sup>49</sup> Polanyi 1977, p. 113.

<sup>50</sup> Polanyi 1977, p. 117.

from Elizabethan times: the uneven distribution of the burden it imposed. This affected the northern towns most of all. A more equal distribution of the Poor Law burden, i.e. a kind of 'nationalisation' of costs, was therefore one of the most important incentives for the reform. The New Poor Law of 1834, however, did nothing to resolve this problem. It simplified very slightly the question of legal residence, but this had little bearing on the labour market. For whilst this factor had previously restricted the mobility of the old, sick, and families with children, it had little effect on those able to stand on their own feet.

In both the countryside and the towns, the development of the local labour market depended on the level of wages and the demand for labour, not on the Poor Law. During the long wars with France, for example, rural wages rose in real terms despite the higher price of bread. This was the very reason why mechanisation of the rural economy was pursued at this particular time. This process then worked against labour, especially when 400,000 soldiers and sailors were discharged at the end of the war, along with those employed in the arms industry.<sup>51</sup> It was at this particular time that the number receiving support rose – clearly a function of the situation in the labour market. A further reason why the 'Speenhamland system' was not as Polanyi saw it an expression of the old society's resistance to market structures<sup>52</sup> is that what made it necessary, on the contrary, was the unrestrained exploitation of all market opportunities and the resistance to bread price regulations, in which members of the rural nobility were also involved. Speenhamland was a wartime measure, one of the political practices designed to halt the spread of 'French principles' among those who had only too good reason to be infected by these. There was unrest in the countryside, and repeated rumours that the price of bread was so high because wheat was being secretly exported to France. But even without evidence of such exports, it is hard to interpret the practice described as the 'Speenhamland system' as a paternalistic form of Poor Law policy, in view of the rigorous profit strategies of the wheat growers and dealers. A more consistent judgement would be that, in the years when revolution was feared, many Justices of the Peace were of the view that a price had to be paid for the country's political stability. Besides, even after 1834, subsidies to

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<sup>51</sup> Jones 1965, p. 325.

<sup>52</sup> Polanyi 1977, p. 113.

wages still continued, and the workhouse 'test' that was the theoretical core of the New Poor Law – i.e. that those capable of work should be supported exclusively as inmates of the workhouses – was scarcely put into practice in the north of England, owing to the violent resistance it encountered.<sup>53</sup>

The Poor Law of 1834 formed the high point of a legislative programme designed to individualise the causes of poverty and paedagogise the official attitude towards paupers. To this extent it took up demands that had been vigorously and influentially made by enlightened reformers such as Daniel Defoe and Henry Fielding in the eighteenth century.<sup>54</sup> But the genuine revolutionising of the Poor Law lay less in this intention than in the change of administrative practice. The rationalisation of policy towards the poor resulted from the systematising and formalising of the system of controlled assistance. These administrative reforms were designed if possible to exclude two things: the incompetence or corruption of overseers that was frequently documented, and the generosity of local magistrates at the cost of Poor Law funds.

It was reported in the early nineteenth century that overseers of the Poor Law were often incapable even of keeping proper books. One farmer is said to have used two boots for his bookkeeping. In one he had the Poor Law fund, in another the receipts.<sup>55</sup> This need not have damaged the poor, but the corruption of overseers, especially in the towns, certainly did so, not to speak of the opportunity they had of making off with the funds entrusted to them. In 1795, the elected Poor Law overseers were placed under the control of Justices of the Peace. From that time, the Justices served as a kind of court of appeal for the needy. This favoured the development of regular administrative procedures, but what particularly required these was the fact that assignment of residence became increasingly complex and difficult in conditions of an increasing mobility of the working population. At first, the standardisation of procedures was developed through legal debate over responsibility and entitlement – as it was a century later in the German Empire.<sup>56</sup> Especially in those communities where large-scale migration of workers very often raised questions of residence, the interest in cost saving already raised challenges to

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<sup>53</sup> Rose 1972, p. 11.

<sup>54</sup> Defoe 1713; Fielding 1753.

<sup>55</sup> Jarrett 1965, p. 342.

<sup>56</sup> Cf. Gerstenberger 1981, pp. 32–61.

the Poor Law administration that could scarcely be resolved by the traditional methods, and the pattern of personnel recruitment bound up with these.

Administrative practice did not immediately change with the Poor Law reform of 1834. Resistance to this was far too violent, especially in the North, where it linked up with the Chartist movement. But the formation of administrative structures to deal with the poor, the employment of paid staff and the establishment of a national authority with (limited) supervisory rights and responsible to Parliament, created structures that restricted paternalism whilst excluding at the same time the monopolisation of the church's Poor Law commissions by representatives of the workers that had been possible in some cases.<sup>57</sup> Varying ways of conducting this office certainly remained possible, but this was no longer a structural principle of Poor Law policy, rather a departure from the rule that characterised bourgeois social policy: the individualisation of the causes of poverty along with the formalisation of controlling assistance – changing needy individuals into 'cases'. Whilst the official doctrine ascribed the cause of poverty to personal weakness, the support of the needy followed 'without respect to the person', i.e. according to administrative classification.

Just as in other bourgeois societies, this state form of managing poverty was also supplemented in Britain by private charity. Norman Gash believes that many private charitable associations actually exploited society.<sup>58</sup> This is quite likely correct, if not in the sense that Gash means. For humiliation and control persist even in private charitable enterprises that are relatively more educational than directly repressive. The socially integrative significance of many English charitable associations lay rather in the social expansion – also to women – of the paternalistic attitude towards the poor that was previously practised as a privilege. In the course of this expansion, *the personal practice of paternalism was converted into the generalised form of education*. Its content was redirected according to the self-consciousness of the newly arisen – 'bourgeois' – social groups. In most cases, this meant not just a supplement to the old exercise of rule, but a regular mixture of personnel, for example when female members of the former ruling estates were given representative func-

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<sup>57</sup> Cf. Foster 1974, Chapter 3.

<sup>58</sup> Gash 1979, p. 332.

tions to ornament a bourgeois social practice. M.J. Daunton seeks to understand the charitable associations and other private organisations as part of the state apparatus.<sup>59</sup> This is correct in so far as a notion of the 'state' that is confined to centralised, legal and bureaucratic practice is fundamentally erroneous in Great Britain, even in the nineteenth century. As far as private charity is concerned, however, one should guard against ascribing it to the process of bourgeois appropriation of the state apparatus. For one of its structural characteristics is the difference in content of its policies that results from its individualised and non-bureaucratic practice. This form of dealing with socially generated distress has also developed in other quite differently structured bourgeois societies as a kind of functional pendant to supplement a state administration of the poor based on ascription of blame.<sup>60</sup>

#### b.2. *Estate power of office and industrial conflict*

One structural characteristic of the *ancien régime* was the regulation of working conditions by power: working hours and maximum wages were fixed, along with terms of apprenticeship, and the control of both forms of production and their results. Substantial portions of this regulative power were de facto abolished in England in the course of the revolutionary conflicts of the seventeenth century. But the authority of the powers that be to regulate working conditions persisted in principle.

In the eighteenth century the Justices of the Peace gradually ceased to lay down maximum wages, and in 1814 the section of the Statute of Artificers that ascribed them this task was declared null and void.

In the interest of public order, however, the Justices continued to have responsibility for settling labour conflicts and dealing with workers' protests. In the war years at the turn of the nineteenth century, a new and important addition was made to these legal and police tasks. Workers' protests had increased to the point that many feared the outbreak of 'French', i.e. revolutionary, conditions. The Combination Acts of 1799 and 1800 were accordingly designed to reinforce the criminalisation of organised labour protests that had long been

<sup>59</sup> Daunton 1989, pp. 153–4.

<sup>60</sup> Cf. Gerstenberger 1981, pp. 39–61.

the rule: by summary procedure, two Justices could sentence workers who organised demands for wage increases to three months' imprisonment.

Whilst many land-owning Justices still maintained in the late eighteenth century a 'neutral' attitude towards the complaints of manufacturers, and sought to resolve these problems rather than simply enforce terms,<sup>61</sup> in the interest of more effectively keeping public order in the face of workers' protests, the sharpening of labour conflicts in the war and post-war years meant a greater priority not only for Poor Law functions (cf. Section b.1), but also for the policing functions of the Justices.

Then there was the fear of revolution. Whether this was well-founded, as E.P. Thompson assumed at least for 1832,<sup>62</sup> is less significant in the present connection than the fact of its effect on shaping policy and changing the pattern of power. For the fear of revolution did not just lead to the partial abandonment of the traditional autonomy of local ruling strata – manifest above all in the demands for instruction that Justices directed to the Home Office – it was in fact the beginning of the end of the estate character of local power of office. From this time on, Justices were no longer elected, and a few decades later the majority of them were no longer even wealthy landowners. What ultimately matters for structural analysis, however, is the relation of their office to society, and this underwent a fundamental change in the first three decades of the nineteenth century. As an institution, the office of Justice of the Peace had previously served to maintain the subordination of labour, defend estate privileges, and maintain an appropriate public-order policy for this; now however Justices were no longer supposed simply to protect all forms of property, but also – against the Luddite uprisings – the right of entrepreneurs to enforce modernisation without heed to the predictable social distress this would bring. At the same time the gentry discovered that they could not maintain the special protection of their estate privilege of hunting against aggressive groups of poachers and a rural population who sympathised with them. Hunting grounds were still forcibly protected, but now only in the context of the general protection of private property (cf. above, Chapter 3, Section a).

In the face of organised and massive criticism of existing forms of rule, the protection of a particular – estate – form of property lost importance, and with

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<sup>61</sup> Marshall 1974.

<sup>62</sup> Thomson 1963.

it the protection of estate privilege in general. Estate-based power of office gave way to class-based power.

The order given in August 1819 to attack the crowd who had assembled on St Peter's Field outside Manchester to demand reform symbolised in a certain sense this structural change in local rule. Until the end of the eighteenth century, local ruling practice had been based on a far-reaching unity between material dependence and hierarchical public order. As we have argued above, this was the material cause of the celebrated 'deference'. Justices of the Peace did not just establish 'public' order, they were in a certain sense also charged with stabilising the conditions of those who lived by the work of their hands. In this connection, there developed a practice of handling social conflicts that can be described in retrospect as the traditional form of public-order policy. Its most important aspect was summed up by E.P. Thompson in the term 'moral economy'. The interests of landowners (including farmers) were never identical. For, with the spread of industrial production, not only did a new degree of difference of interest arise among those who drew profit from the labour of others, but the previous unity between public-order policy and the regulation of production relations was also disrupted. The former practice of deploying overt repression chiefly against outsiders rather than the lower orders in local society had to be abandoned in relation to labour conflicts.

The Combination Act passed in 1799 and revised in 1800, which applied the traditional notion of riot to labour organisations, prescribed prison terms for the organised representation of workers' interests. It is true that these were relatively 'mild' in relation to other penalties in force at this time – for example a seven-year term of transportation for minor theft. But sentencing here lay in the summary competence of two Justices. And if it was possible to appeal to the regular sessions against their decision, it remained that two magistrates could decide on behalf of the public power the strategy to be taken in a particular case against workers' organisations. This corresponded with the traditional rule practised against the lower orders. *Vis-à-vis* workers' organisations, however, a practice that had so little in common with any standard of right could not effectively prevail. The unpredictability of its outcome, which had previously been more of an advantage, now became an obstacle in implementing generalised public-order policy. It was thus first and foremost social and political changes, rather than institutional reform, that transformed the office of Justice of the Peace. This social process made the remaining personal



powers of the Justices a kind of insecurity factor in the system of government. Since the exercise of personal rule was no longer based on more or less generalised estate interests, it became to a far greater extent than previously an element of individual arbitrariness in the system of rule.

In the first decades of the nineteenth century, there remained few opportunities to use individual room for manoeuvre in a paternalistic fashion. Machine smashing, the mass demand to participate in political decision-making, as well as the resistance in the 1830s to the new Poor Law, caused many Justices to resort to repressive class force. The most important characteristic of this change was the refusal to assess demands morally. Traditional public-order policy gave way largely to formalised practices. To accomplish this change, if need be against particular Justices and their personal views, the groups that championed this policy in the House of Commons pressed for a formalisation of local office power. Once this was achieved, those local powers of decision that remained could once more be used for the purpose of mediation in locally specific conflicts.

At the same time, there also developed a historically new form for the practical settlement of conflicts in the realm of capitalist – and in particular industrial – labour relations. Its beginnings lay in the abandonment of the ban on combinations decided in 1824. Its real social basis, however, was the specific structure of capitalist relations of production as these developed in England in the nineteenth century. Given the strong position that skilled workers then enjoyed in the labour process, along with the profits drawn from England's industrial precedence vis-à-vis other capitalising economies on the Continent and its dominant position on the world market and in the exploitation of colonies, a *new tradition of negotiation* developed. This was based no longer on the 'moral economy' of the *ancien régime*, but rather on the at least partial convergence of interest between entrepreneurs and the materially better-situated workers. This material basis of reformism was also the basis of nationalism, and hence a structural precondition for the final establishment of a bourgeois form of state power.

The practice of avoiding confrontation was generalised politically. The many commissions and inspectorates that Parliament set up to investigate labour conditions were the political expression of a specific form of regulation of class conflict. This tradition – and with it the 'old' trade unions that had a stake in it – underwent an initial structural change at the end of the century,

but persisted in this revised form through to the 1980s. It was then revoked by the Thatcher government on the pretext of the structural crisis of British capitalism.

### c. Dissolution of the *ancien régime* of appropriation

Capitalism is based on the availability of human labour-power as a commodity. Its prevalence cannot be directly deduced from the extent of internal or international trade, nor from any governmental measures. In England, capitalist relations of production developed from the fourteenth century onwards (cf. Chapter 2, Section a.1) in the context of personal rule. Under the *ancien régime*, as we have explained, appropriation by way of power (as distinct from exploitation by possession of land and other means of production) underwent a change. It now developed into the usufruct of centralised appropriation and the deployment of privileges sanctioned by power. This *ancien régime* of appropriation stretched from the royal fiscal power, via the profitable exploitation of power of office and the acquisition of privileges (monopolies), through to manorial jurisdiction and the relation of masters to apprentices and journeymen. Residues of this practice of appropriation still persisted in the form of corporate privileges at the end of the nineteenth century, and even today. (Cf. for example, the privilege of barristers to plead before the high courts, which is presently being forcefully defended against plans to allow solicitors.)

But once the extent of private usufruct of centralised power had been considerably reduced by the revolutions of the seventeenth century, the remains of the *ancien régime* of appropriation ceased to present a barrier to the further spread of capitalist relations of production. This was all the more so in that the nobility participated to a substantial extent in the process of capitalisation. If industrialists at the end of the nineteenth century still liked to hobnob with eminent lords (whose company City bankers especially esteemed), this was nothing more than a particular fashion in the *culture of economic competition* that had long been already dominant. The remaining forms of appropriation through power had increasingly come under criticism from the late eighteenth century. As far as appropriation through power of office was concerned, certain reforms were carried through around the end of this century (cf. Section 4.a), while a more substantial share of 'old corruption' was abolished with the reforms of the 1830s.

The remains of the *ancien régime* of appropriation had the effect of a regulation of competition by power in favour of estate or long-established interests. In the parlance of the time, both estate and long-established (chiefly urban bourgeois) interests were referred to as 'vested interests'. The process of dissolving the *ancien régime* of appropriation can therefore be described as one of a cultural de-legitimising of vested interests. It was accomplished by a series of political campaigns (cf. Section d), and amounted to a substantial expropriation. For those who possessed not only means of production, established trading connections and the capital needed for these, but on top of these also privileges, now lost the latter. This process was the institutional aspect of the decisive social triumph of the entrepreneurial ideal that Harold Perkin has described.<sup>63</sup>

Two examples – the first a prominent theme in historiography, the second relatively neglected – will make clear this process of abolition of 'vested interests', i.e. of the restriction of economic competition that was characteristic of the *ancien régime* in England.

### c.1. *The repeal of the Corn Laws*

It was only in the early nineteenth century that the Corn Laws developed into an unambiguous political favouring of the grain producers. Up till then, they had been rather a pendant to the traditional policy of public order. Restrictions on trade in grain were designed to help secure at least a minimum supply for the population. It was only when it became clear how free trade could lead to a considerable reduction in price without a reduction in quantity, that the Corn Laws became – from about 1815 – an intentional economic support for agricultural producers. This support was certainly less far-reaching than the landed proprietors would have liked, especially in Ireland, Scotland and the Cambridgeshire fens.<sup>64</sup> None the less, the persistence of the Corn Laws was an occasion for riots and widespread criticism. In the 1830s and 40s, the Corn Laws became a favourite target of the free trade movement; this was at the same time however a movement for the general abolition of traditional privileges.

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<sup>63</sup> Perkin 1972, Chapter 7.

<sup>64</sup> Hilton 1977, pp. 5, 15–17.

There were two particular structural preconditions for this: a more than local generalisation of the so-called 'manufacturing interest' vis-à-vis the 'agricultural interest' – a situation that was still not in place in the late eighteenth century – as well as the representation of anti-estate political demands. The latter received its first broad organisational basis in Chartism. In these particular social and political conditions, the conflict over protectionism developed into a struggle for the preservation or abolition of the cornerstones of estate rule. Only after the victory of the free trade movement in the 1840s could the dispute between protection and free trade be waged as one of economic policy alternatives. Until then, far more was at issue than the possible profits and losses of a fraction of capital.

This was demonstrated not least by the fact that the bishops of the Church of England were firm defenders of the Corn Laws. They reckoned that the expected reduction in price would lead to a loss of income for the clergy. It was not accidental that the campaign for free trade led by the Anti-Corn Law League of the 1840s gave new life to the campaign against the established church. 1844 saw the formation of the Anti-State Church League.

A first legislative measure towards the repeal of the Corn Laws was the reintroduction of an income tax in 1842, paving the way for a reduction of excise revenue. In the course of the 1840s, almost all protective duties were abolished. The remaining Corn Law expired in 1849, and in the same year the Navigation Acts were also repealed. The supremacy of English merchant capital on the world market had made these superfluous.

## *c.2. The nationalisation of the East India Company's possessions*

In 1858 the privileges of the East India Company were abolished, and the administration of India taken over by the government of Great Britain. Until this time, despite increasing public regulation, rule of India still lay formally in private hands.

The first hundred years of the East India Company's existence do not need detailed examination here. This was a company of private shareholders who paid the crown to grant and renew their trading privileges, also providing it with additional loans and 'presents'. A close political alliance between the crown and the Company arose from the interest of the one side in charters and the other side in revenue. The flight of James II in 1688, however, almost

sounded the death knell of the old Indian privileges. For after the 'Glorious Revolution', the 'new interests' in the City claimed similar privileges for their own trade with the Indies. Until a political compromise was reached in 1702, the struggle between 'old' and 'new' interests cost both sides enormous sums of money. These conflicts were waged on the City money market, in Parliament and at court, and required the material padding of old and new connections to influential personalities.

Until well into the second half of the eighteenth century, the institutional history of the East India Company was marked by conflicts within the Company being waged as struggles between factions in Parliament, whilst conversely the renewal of Company privileges was hostage to the political battles of the day at Westminster. It is readily explicable, therefore, that in a period when, under Walpole's premiership, the Whigs and the 'management' of Parliament remained largely unchallenged, the East India Company could also practise an unchallenged political influence. This was naturally facilitated by the immense profits that were made in this time from the Indian trade. Against this economic and political background, it was possible for the Company's directors to have their almost sovereign rule, over both the conquered parts of India and those still to be conquered, confirmed in 1757. It was established that all regions and other booty that the East India Company acquired with its own military forces should fall to it entirely and in case of need be supported against division by His Majesty's army and navy. What is particularly significant here is that in this political phase, the East India Company essentially determined its own policy and could call on the armed force of the British government in prosecuting it, without the government reserving any decision-making power of its own.

At this time, the political connections between government and Company still ran via personal and factional channels. Even the violent conflicts that broke out in the Company in 1757 over the election of its governing board did not abolish this structure. In the mid-eighteenth century, the East India Company was thus an organisation that could resort to public means of force in order to secure immense private profits. Both the shareholders and the employees of the Company benefited from this. Employees could make up for their low salaries by the permission they had to undertake trade on their own account. The directors, above all Robert Clive, extracted immense 'presents' from the Indian princes.

In the 1760s – simultaneously with the end of government stability in Britain – both official and private enrichment practices of the directors and employees of the East India Company became the object of political debate. It was finally laid down in 1759 that all the conquered territories lay under the crown. No change however followed from this. For the government let the Company purchase administrative authority over India on an annual basis. Even the participation of the government in the election of directors that was introduced in 1773 did not bring about a fundamental structural change. The Company continued to levy taxes and tributes, and its employees to extract ‘presents’. In addition to the profits of trade, this private organisation held on to a large part of the money it extracted from the Indian population by its political and military rule.

In the context of the political crises of the turn of the century, political contention between rival factions grew sharper, and demands were increasingly raised to let in the ‘new interests’, so that the rich pickings of the East India trade and the internal structure of the East India Company became once again issues in a political struggle. But abolition of the private administration of India was now blocked not only by influential representatives of the ‘vested interests’, but also by the limited resources of the English state apparatus. The attempt was indeed made to lay down a basic division of competences, and achieve this by expanding the institutionalised powers of the governor-general. But, because the government of India was pursued for the direct profit of private parties, this did not change anything substantial.

The East India Company gradually ceased to be a trading organisation. It now drew its profits from the share of tax and tribute payments that was officially permitted it, as well as an additional share that it retained. In 1823 it lost the monopoly of the East India trade, and in 1833 it was formally banned from trading activity. But only after the great Indian uprising of 1857–8 did a broad criticism of this practice of private government develop in England. In 1858 the East India Company was abolished. The administration of the gigantic colony, as well as the policy towards those areas that were not formally under the government of Great Britain but indirectly so by way of so-called supporting alliances, was nationalised. This did not reduce the exploitation of India, but it did abolish private profiting from taxes and tributes. The intended objective was to establish an administrative practice that would not provoke renewed uprising and massacre.

The end of the East India Company was not yet the end of the political privileging of private trading companies. The British South Africa Company still obtained a charter at the end of the nineteenth century, like many other such companies before it. But the extent of private appropriation of the proceeds of state policy, and the entanglement of the interests of a company with factions in the home country that had made the East India Company such a bulwark of the *ancien régime* in the eighteenth century, were now reduced to a system of lobbying for opportunities of private profit in a context of party politics.

The abolition of the *ancien régime* of appropriation was demanded by manufacturers and industrialists, by non-privileged merchants, by organised workers and by many members of those strata that hoped for opportunities of advance in the state service for themselves or their sons. It was politically effected by Parliaments in which the landowning nobility and their relations still dominated numerically. Even if many critics were ready to lump the entire nobility together in the enemy camp, the political dividing line ultimately ran right through the gentry and the higher nobility.

In English historiography, the abolition of appropriation through power and privilege under the continuing domination of the nobility in government and Parliament is studied in terms of a self-reform of the English nobility. This may well be correct, as long as the material preconditions for this insight into political necessity are taken into account. The first of these preconditions was that aristocratic politicians succeeded in maintaining their political leadership of the so-called 'landed interests', by way of their traditional influence in the counties, their successful political management and their financial resources.<sup>65</sup>

On occasion, this was significant for a representation of material interests that transcended estate limitations, but the material interests of farmers, small landowners, gentry and peerage were all too frequently overlaid by differences of interest for the representation of the landed interest in the nineteenth century to be reducible to a common opposition to the 'moneyed and manufacturing interests'. Even the resistance to the repeal of the Corn Laws was fuelled by a variety of 'interests'. Whilst it was especially small landowners and farmers who feared for a reduction in their income (the opposite of what the Anti-Corn Law League argued), what members of the aristocracy often

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<sup>65</sup> Thompson 1963, pp. 27–49.

combated first and foremost was the formal abolition of a special valuation of the landed interest, and hence of a normative basis for their estate supremacy. Finally, however, a Parliament dominated by landowners gave way on this point as on so many other traditional privileges.

In a different fashion to the lower gentry who tended politically to be opponents of reform, members of the aristocracy, from their position of material security and scarcely threatened social respect, could afford the luxury of insight into political requirements. Not all peers and MPs made use of this opportunity, but a considerable number of them did. They thus purchased as it were for the leading strata of the nobility the continuation of a favourable access to the political power élite. This advantage persisted until the First World War, a point we shall return to below.

In recent years, this fact has often been seen (for instance by Perry Anderson)<sup>66</sup> as the reason for the dominance of finance and trading capital in English capitalism, and the loss of Britain's position as the leading industrial nation. This argument is supported by the close connections that leading politicians have had with the City of London. The cultural and political hegemony of 'gentlemen' supposedly led to the formation of a 'gentlemanly capitalism' and the rejection of technical innovation. But besides all the empirical objections to be made, such as the fact that there were always both personal and especially economic connections and overlaps between the different fractions of capital,<sup>67</sup> it can be firmly established that the dominant patterns of investment practice were in economic terms rational in both the short and the middle term. No recourse to any form of aristocratic hegemony is needed to explain them. The position of English capital in connection with its Empire and the world market is evidence enough. As long as high profits could be made from trade and finance, there was no impetus to invest in the modernisation of British industry. There may have been individual aristocrats in the nineteenth century who let themselves be guided in their appropriation practices rather by perspectives of status than by capitalist rationality, and certain entrepreneurs may well have sought to act in a similarly 'aristocratic' fashion, but, for the development of patterns of investment, the fact that leading representatives

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<sup>66</sup> Anderson 1987.

<sup>67</sup> Cf. here Daunton 1989, pp. 133–42.



of agricultural capital were nobles and preferred to consort with bankers than with farmers has no decisive significance.

#### **d. From the 'political nation' to a national political public**

In England, the dissolution of the *ancien régime* took place in the form of campaigns. These achieved a far-reaching formalisation of administration, formal rights of participation, the abolition of competitive advantages for the holders of privilege, and most of all, the expansion of the political sphere. The assertion of a national public as the legitimising instance of policy represents the bourgeoisification of the organisation of political power.

The process of this transformation does not need to be depicted here in detail, only in respect to its most important milestones. The first of these was the early beginnings of organised extra-Parliamentary opinion in the 1760s. Up till that time, influential political opposition was chiefly expressed in the notion of 'country' that has been explained above. This was represented by social groups that belonged at least locally to the ruling strata. They pressed for the abolition of corruption and overweening influence at court. They sought to reform the exercise of rule, but not to change it fundamentally. This shifted for the first time with the election of John Wilkes as the Member for Middlesex. The use of a 'general warrant' (the command to search and imprison unnamed individuals) and the decision of Parliament to declare the runner-up elected, since Wilkes was banned from taking his seat, led to protests across the country, in which members of the lower orders were especially prominent.

John Wilkes, whose heroism historians do not depict so generously as did many of his contemporaries, had a considerable propagandist talent. He succeeded in presenting himself as a symbol for the victims of an oligarchical system of rule. But this was only possible because there were many people in England – especially in the towns – who were self-conscious enough at this time to demand the rights of 'all Englishmen'.

Even if the first associations for civil rights had only very limited success, and the Correspondence Societies that arose in the 1790s initially remained first and foremost societies for self-education – given the draconian prosecution of English Jacobins at the turn of the century and beyond – the *demand* of a wider public to have a voice in the general affairs of the country had been

since the late eighteenth century a structural feature of the English system of rule. The old ruling strata reacted to this demand with strategies of criminalisation. So-called 'loyalty associations' arose in support of this policy – especially when political radicalism began to spread even among artisans.<sup>68</sup>

Thus even though official policy aimed at defining political radicalism as a public-order problem, and treating it accordingly, many who participated in this repression must have been aware that their practice was unsustainable. This can be seen from the fact that a regular theory to legitimise the political status quo was developed and publicised. The notion of 'virtual representation' maintained that it was incidental *who* voted, all that mattered was who was elected. Existing procedure would secure the election of Members who did not represent individuals but interests, and the interests of all Englishmen to boot. Thus, if, for example, a large manufacturing town was unrepresented, it should not be concluded from this that the manufacturing interest was not represented. This justification of the old electoral system was supplemented by the view that the legislature stood above public opinion. Sovereignty supposedly lay with the law-makers (i.e. Parliament and crown), and there was no basis for the sovereign claim of the public. This, in my view, quite pertinently interpreted the existing system of estate rule. The mere fact of this interpretation, however, indicates that the foundation of estate rule was changing.

This did not initially change anything in the dominance of the estate power of interpreting what political views were relevant. In this selection process, for example, the 700 petitions Parliament received from some 350 towns in 1817 alone were as little relevant as the threat of the inhabitants of St George's, Hanover Square, to refuse to pay taxes. By unanimously rejecting their petition, the Members of the House of Commons demonstratively excluded this public manifestation from relevant political discourse.<sup>69</sup>

With the Reform Bill of 1832, a fundamental change in the basis of rule became evident. This electoral reform certainly did not aim at abolishing the supremacy of the landed nobility in English political institutions,<sup>70</sup> nor was this its practical effect. Only after the Second Reform Bill of 1867 did the social composition of the lower house change in any notable sense, but even in 1886,

<sup>68</sup> Dozier 1983, pp. 89–91.

<sup>69</sup> Cannon 1973, pp. 171–3.

<sup>70</sup> For more detail, cf. Brock 1973, pp. 36–110.

after the Third Reform Bill, members of the landed nobility and their relatives still made up half of all MPs.<sup>71</sup>

The focus on the social composition of Parliament, however, overlooks the immense symbolic importance of the First Reform Bill.<sup>72</sup> After 1832, it would scarcely have been possible for any of the great landlords to express himself as did the Duke of Newcastle in 1829, when he responded to the reproach that he had terminated the tenancies of farmers who voted against his wishes: 'it is presumed then that I am not to do what I will with my own'.<sup>73</sup>

The Reform also changed the conditions of election campaigns in a dual sense. Firstly, though the new strata of electors were initially prepared by and large to continue entrusting the selection of candidates to the social strata who had long been politically dominant, this did not mean that they accepted all of these. In particular, it now became steadily more common for electors to expect Members of Parliament to pursue definite political aims, making them in this sense 'their' representatives. Public debates, direct demands and petitions tied MPs not only to those people to whom they owed their position, but, to a previously unknown degree, also to their electors. Secondly, the election of a candidate who enjoyed the support of influential local nobles could not be taken for granted to the same extent as previously. Whilst the 'benefits' that the nobility previously distributed at election time had functioned as a kind of legitimately expected counterpart to the recipients casting their votes for the candidate promoted, these were now simply a means to influence the election decision. In the decades that followed the First Reform Bill, bribery was a structural feature of the English electoral system. This structure was, in a certain sense, self-reproducing. Since the costs of election campaigns were very high – because of bribery – candidates from the rising social strata were largely excluded. Conversely, the costs of election campaigns remained very high just because of this exclusion. For as long as there was little difference between the candidates and programmes, and in very many constituencies the question in the mid-nineteenth century was still to decide which of two

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<sup>71</sup> Guttsmann 1965, p. 82.

<sup>72</sup> Cannon 1973, p. 262.

<sup>73</sup> Cited after Brock 1973, p. 63.

socially similar groups was to dominate local politics, material offers actually often were a decisive factor.<sup>74</sup>

The eventual banning of such electoral practices only sealed the dissolution of traditional structures of political influence, it was not the cause. After urban oligarchies were destroyed by the law of 1835, the old structures for reproducing political domination remained intact especially in the countryside. The landed nobility therefore stubbornly defended the structural favouring of rural constituencies. It was only in 1884–5, when (as described above) the influence of the nobility on the electoral decisions of their tenants fell victim to economic conflicts, that resistance to abolition of this inequality came to an end.

A broad public had already arisen in England in the seventeenth century, in the form of a religious public (cf. Chapter 2, Section c.1). The restoration of estate rule required and effected the restriction of this opinion. The limited public basis of policy was described by those who belonged to it as the 'political nation'. But a *culture of Nonconformism* that had arisen, i.e. the demand to make one's own mind up about God and the world, was not abolished. Protestantism is an important structural element in the specific English form of bourgeois revolution. The old-style 'dissent' had lost its dynamism with the stabilisation of political conditions in the early eighteenth century. But the development of new social conflicts, and the advancing of new social and political demands, led to a new wave of dissent at the close of the century. An important inflection of political radicalism marked the rationalist tendencies of Nonconformism and forms of religious practice such as Methodism that were accepted by poor people as their own. The change from preaching *to* poor people to a religious orientation *of* poor people is attributable to a fundamental change in the political system.

At the end of the eighteenth century, Nonconformism was no longer proscribed, though it was still discriminated against. The Test and Corporation Acts excluded members of almost all Nonconformist denominations from public office, along with Catholics, Jews and unbelievers. The *de facto* circumvention of this discrimination in certain towns, however, already struck a breach in the *ancien-régime* form of rule, and the repeal of the Test Act in

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<sup>74</sup> Moore 1976, pp. 444–5.

1828 meant the abandonment of an important bulwark of this. The fact that a considerable number of Nonconformists were elected to Parliament after 1832 marked the dissolution of a regular political culture. Yet conflicts over religious belief were still present in English political discourse long after 1832. Contrary to the opinion of J.C.D. Clark,<sup>75</sup> this was not simply a continuation of earlier discourses. For in the nineteenth century religious debate developed in a society that was already pervaded by rationalism. The prevailing characteristic of the politically dominant culture was not a continuity of theologically determined secular goals, but rather the manifold *moral* interpretation of a rationalistic world view. Since the cultural forms of rationalism delimited relevant questions as to the sense of human life, they necessarily provoked radical counter-positions. Millenarianism and spiritualism reflected this process of rationalisation.

In the context of the social supremacy of rationalism, the relation of the state church to society also underwent a change. It is true that Parliament in the 1830s and 40s was in no hurry to demolish the establishment of the Church of England. It did however successfully threaten an internal reform. The administrative and financial structures of the established church were investigated, in part newly regulated, and subjected to the future control of Parliament; the practices of local clergy were placed under greater supervision, and more attention was paid to competence for spiritual office in the appointment of bishops. Freehold tenure still protected the Anglican clergy from displacement and removal,<sup>76</sup> yet the duties of clerical office-holders were now valued more highly than their qualification for appropriation. The internal reform of the Church of England was politically forced upon it. To a degree, however, it was also supported by the spread of rationalist ideas among the clergy. The uncertainty that had marked the period of the French Revolution gave the most important impulse to the view that the Church of England could not just continue as a defence against papism, Nonconformity and scepticism; religious practice had to legitimise itself as useful to 'society'. This gave an upswing to educational orientations in the church, and promoted the adoption of the principles of 'political economy' in the orientation of Christian-administered local Poor Law policy. All in all, the spread of rationalism in the church meant

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<sup>75</sup> Clark 1985 and 1987, *passim*.

<sup>76</sup> Cf. Beeson 1973, p. 61.

that its tasks were set for it by the socially decisive representative groups.<sup>77</sup> The separation of the church from the exercise of rule by the land-owning estates, and its reorientation as a conservative institution actively engaged in the process of socio-political stabilisation, became conceivable for certain bishops of the established church from the end of the eighteenth century. The collaboration of two bishops in the commission – led by a bishop – that elaborated the draft of the New Poor Law showed for the first time in the early 1830s the adaptation of the episcopacy to altered circumstances.

The institutional change took longer. 1834 saw the failure of an attempt to abolish legislation providing that couples who did not confess the Anglican belief had to register their marriage with the Poor Law authorities of the 'established' church. Similarly unsuccessful were the attempts at this time to introduce state supervision of church schools and abolish tithes. The Church of England monopoly on burials was also retained. As Logie Barrow has shown, this situation could provoke grotesque situations. As late as 1884, burial rites for a steadfast spiritualist who had held out against a church burial to the end of his life had to be held on the street outside the cemetery, since the religious authorities insisted on their legal right to forbid the utterance of un-Christian speech in the cemetery.<sup>78</sup>

And yet, the gradual dismantling of legal and financial support for the religious establishment that was carried out in the course of the nineteenth century promoted the transformation of the state church into an upholder of social conventions. Sunday church attendance, demonstrative sexual prudery, even family prayers, developed into forms of behaviour signifying respectability, and did not necessarily correspond with convinced religious practice. By the end of the nineteenth century, both Sunday church-going by the well-to-do and preaching of the torments of hell were on the decline. Hugh McLeod<sup>79</sup> sees the erosion of Victorian conventions as causally connected with a changed theological view of Hell. Undoubtedly, the dominant position of the Anglican church was on the wane. This opened the historical opportunity for it to become a church organising the practice of convinced Anglicans. In actual fact, this period saw increased attempts to give the laity

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<sup>77</sup> Cf. Soloway 1969, pp. 19, 107, 151.

<sup>78</sup> Barrow 1986, p. 235.

<sup>79</sup> McLeod 1974, p. 245.

a greater role in defining such practice. This was the connection in which the 'life and liberty' movement arose in 1917. The Enabling Act of 1919, which granted the Church of England a limited self-government, was the result of this campaign.

But this still did not lead to disestablishment. In 1928, Parliament refused to vote changes in the official prayer book, a matter that still fell within its remit, though a new proposal in 1965 did receive the required majority. Still today, bishops are appointed by the prime minister, and less than a third of patronage rights over local clergy are in the possession of the church itself.<sup>80</sup> That the persistent control of patronage rights by the laity is no mere formality was shown particularly clearly in 1944, when Bishop George Bell failed to be appointed archbishop after he criticised the bombing of German cities in the House of Lords.

In the same way, the prayers that Anglican clerics hold in each house of Parliament at the opening of each daily session, as well as the provision that the monarch has to be a member of the Church of England, and the *ex officio* membership of Anglican bishops in the upper house, remain as residues of the former state-church constitution. One reason why they are not completely unimportant is that in England, Anglican practice still corresponds to a considerable degree with high social status. Participation in this traditionally privileged religious practice is useful for social advance and political influence, if no longer indispensable.

It is not the fact that the privatisation of religious practice is incomplete, and religious motivation can still be important in political conflicts, that differentiates English society from other bourgeois societies, but rather the far-reaching responsibility of a still 'established' church for the management of national rituals.

In the present context, the religious moralisation of political discourse is chiefly significant in so far as it affected the strategies and scope of political campaigns. The Protestant sects of the nineteenth century were certainly far removed from the zealous righteousness of the Puritan saints, but they did place certain conditions on the public legitimisation of private interests. This was the context in which the movement to abolish slavery developed. The Anti-Slavery Society, especially forceful in the 1820s, described slavery as an

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<sup>80</sup> Beeson 1973, p. 58.

abuse of the right of property. In the view of the abolitionists, the worst of this was if slaves were not converted to Christianity.

The abolitionists embarked on a steady work of convincing public opinion; though when their demands became known in the colonies, especially in Jamaica, they helped to provoke slave uprisings. The insurgents assumed it was only their immediate masters who stood in the way of an already decided liberation. These uprisings accelerated the decision to abolish slavery in the British Empire.<sup>81</sup> The law of 1833 expropriated the owners of a quarter of a million slaves in the crown colonies, and 580,000 in the self-governing colonies (India being excluded from this). Initially a form of compensation was envisaged. Slaves who were over the age of six in 1833 were not to be freed immediately, but work for their former masters 40½ hours a week without pay for six years. Some representative bodies in the self-governing colonies rejected this regulation, knowing full well that they could employ cheap wage-labour. When this 'apprenticeship' was introduced, there was renewed resistance, and in Great Britain a new campaign by the abolitionists. In 1838 the self-governing colonies removed this obligation in order to avoid new encroachment on their powers.

Whether the abolition of slavery was economically rational at this point in time, as Eric Williams believed,<sup>82</sup> or – as J.R. Ward discusses for the West Indies – it was unambiguously unfavourable to the plantation owners,<sup>83</sup> it involved an expropriation of the slave-owners and thus an infringement of the iron laws of property. This was decided by politicians who considered the protection of this law as one of their most fundamental tasks. In this connection, the religious argument about abuse of property played a key role.<sup>84</sup> It would be mistaken however to interpret the abolitionists' campaign as a general movement for greater humanity. Their argument against abuse was not extended to the lot of the workers of England.

The limitations of the abolitionists are clearly visible in hindsight. To their contemporaries, however, they provided practical evidence that far-reaching political change could be brought about by activist campaigns. It is no accident

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<sup>81</sup> Cf. Hart 1985, Volume 2, Chapters 12–14.

<sup>82</sup> Williams 1964.

<sup>83</sup> Ward 1988.

<sup>84</sup> Cf. Hurwitz (ed.) 1973, Introduction.



that the abolitionist movement long served subsequent reform campaigns as an organisational model.

Even though the inflection of public discourse by Christian morality lasted the whole nineteenth century – even Disraeli taking this perspective to express his critique of political conditions – the social limits to the content of such debate were already apparent in the 1830s. The Chartist leaders failed in their attempt to use collective church attendance as a form of political demonstration. They had seen this as an opportunity for a street demonstration that could not be criminalised as well as a demonstrative integration of their own demands into the socially prevailing system of values. But unlike many of their leaders, most of the Chartist rank and file were not (or no longer) church-goers.<sup>85</sup>

During the nineteenth century, a political public arose in England that outgrew the social boundaries of the eighteenth-century 'political nation'. This was now a public of church-goers and newspaper readers. Besides the grid of religious legitimisation, two new such grids came to prevail over these decades – both of them eventually winning social acceptance.

First of all, there was the basing of politics on science. It is true that debates on political economy in the 1830s were still not completely free from a context of moral and religious values, but the economic liberalism of the 'Manchester school' gave an impetus to this tendency. In the theoretical foundation of positivism by John Stuart Mill and the consequent development of a discipline of economic policy, the separation of the functional analysis of capitalism from morality was decisively completed. The second was the secular foundation of the demand that every man, and possibly also every woman, should be recognised as a rational human being and be consulted on general affairs. This view did not have its effect by a process of mere understanding, but gradually came to prevail on the basis of crises and campaigns. There remained those excluded from the political sphere – most substantially, the state sanctioning of the social process of confining women to a notionally private sphere. But, from the mid-nineteenth century on, the *regulation by power of the structures of the public sphere* increasingly retreated to *political strategies for influencing the*

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<sup>85</sup> Ward 1973, p. 201.

*contents of public discourse*. This was the temporal and political context for the development of a national system of education.<sup>86</sup>

### **e. 'Pomp and circumstance': the English form of bourgeois state power**

'Circumstance' is bourgeois and capitalist (or at least, 'circumstances' are), 'pomp' supposedly aristocratic. Many of its elements, just like Elgar's celebrated march, were composed only at the end of the nineteenth century. A brief analysis of the social causes of these particular phenomena of a bourgeois society (and thus also of their structural significance) will suitably conclude our investigation of the process by which bourgeois state power was constituted in England.

The most important precondition for this development lay in the emergence of a material basis for the hopes of many workingmen and their wives, many workingwomen and their husbands, for a reform of economy and state that would involve rising wages, a more favourable social policy, state regulation and thus the fulfilment of desires that had for a long while been almost unattainable: a home fit for humans, enough to eat, schools for their children, a Sunday suit, a hat...

It was only on such a basis that the notion of 'heritage' could develop. The English 'heritage' embraces everything that came to be defined in social processes as the *national inheritance*. It could almost be said that in England – though not in the other countries of Great Britain – the notion of 'heritage' replaces that of nationalism. For however much the determination of the contents of English nationalism was accompanied, and still is, by conflicts over their authoritative definition, it is clear that it is those strategies of definition of Englishness that appeal to a certain version of history that have been the most successful.

The emergence of a concept of the nation, and the demands for the full opening up of state power that arose from this, presupposed in England, as elsewhere, a certain process of cultural integration. In important aspects, this remained confined to particular social strata. The culture of factory work was developed by men and women who may well have remembered particular

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<sup>86</sup> Cf. here Perkin 1972, pp. 295–8.

local customs with their peasant or artisan character, but could hardly continue these. Instead there arose new – generalised – patterns of gesture, speech and values. At the other end of the social hierarchy, the London season, along with the marriage market that was held there and the public schools, had similar results. In the public schools, the sons of the aristocracy and other well-to-do families learned a common ‘language’. For many of them, the Welsh and Irish for example, this meant English, but for all it meant a standard accent, and a preference for certain expressions, gestures, and items of clothing. At the same time they learned the *habitus* of tolerating eccentric behaviour by particular members of their social stratum.

But no matter how great a gap remained between different spheres of life and cultural behaviour patterns, there was still a spread, both among the workers and the aristocracy, of the values of those social groups that in England are called the ‘middle’ classes: achievement and sober judgement, education, family orientation and respectability. By the middle of the nineteenth century, the ideal model of a ‘gentleman’ corresponded both to bourgeois values and to those of an honest worker.

The ‘world of the bourgeois’ that Hobsbawm depicted in his cultural history of 1848–75,<sup>87</sup> was also hegemonic in all other social spheres. What was the reason, then, that it did not unambiguously replace the cultural dominance of the ‘aristocracy’? Immanuel Wallerstein has recently offered an answer that is both brilliant and endearing: every bourgeois, says Wallerstein, conceals an aristocrat *in spe*. For even if the logic of capital demands the unconfined quest for profit for profit’s sake, the psycho-logic of the capitalist is still always directed towards rental income, monopoly, and the most eminent possible social position. This thesis is pertinent enough vis-à-vis the unhappy confusion of cultural patterns and class positions it is directed against, yet it does not suffice to explain the political-cultural amalgam of *capitalism and heritage*.

One structural precondition for this particular development in England was the early disempowerment of the crown. Even today, this has not proceeded so far that the queen or king is reduced to a mere symbolic emblem of British nationalism. If the queen rejected the appointment of a minister, this would still today force the prime minister to propose a replacement or resign. The monarch has the right to be informed about all government business and

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<sup>87</sup> Hobsbawm 1975.

to confer with any member of the Cabinet. This is not an influence that can be upheld in court, but it cannot be simply discounted.<sup>88</sup>

In the present connection, however, it is not the surviving remnants of political influence that are decisive, so much as the actual disempowerment of the crown. At the end of Victoria's reign in 1901, the English crown was already more or less insignificant compared with other monarchs of the time. So, when the British monarchy at this time, just like the royal and imperial governments of other European countries in the late nineteenth century, bent itself to perfect rituals of rule or even establish new ones, this should not be interpreted in the British case as a strategy to really expand the royal prerogative power. Bourgeois political parties in other countries may have found themselves forced to seek to abolish, along with royal and imperial claims to power, also these particularly impressive theatrical presentations of national might and paternalist state power, but in England it was only role models that were redefined: in place of the royal person, there was now the whole royal family. After the First World War, this also changed its origin. It no longer stemmed from the houses of Hanover and Saxe-Coburg, but was, rather, the house of Windsor. The occupation of roles, however, did not change, and thus the situation was the diametrical opposite of the Middle Ages. Whilst at that time, a single person had ruled over the entire kingdom, in the course of the twentieth century the members of the royal family became the possession of the nation. The strictly ritualised presentations of the monarchy are not just a symbol of English (and possibly British) nationalism, they symbolise the *historic basis of this nationalism*. These rituals define the monarchy as the embodiment of 'age-old' values, and thus – in form at least – evade conflict over the present definition of national values.

These transformations of the monarchy into an institution that shifts the basis of national might into the magnificence of national heritage, was closely associated with the dissolution of estate rule. Taken as a whole, the lower gentry lost their noble status in the nineteenth century. The beginnings of this process go back to the eighteenth century, when many families from this stratum could already scarcely compete socially with urban bourgeois strata. They could not afford to educate their sons at expensive schools, and often could only finance a very abbreviated grand tour on the Continent. They

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<sup>88</sup> Hayden 1987, pp. 3–4 & passim.

could not maintain a large open house, travel to London for the season, or stay in resorts that were becoming increasingly fashionable. Their prospects on the markets for land, country seats, offices and marriages were sinking. In the nineteenth century, this development was accelerated by the fact that Justices of the Peace lost powers and prestige, whilst many bourgeois from the towns had villas built in the country without seeking social contact with the local gentry. When the (lower) gentry lost in this double way the possibility of co-option into the nobility, they hardly retained sufficient means to uphold their noble status in other eyes but their own.

Already from the eighteenth century, but especially in the Victorian age, there accordingly emerged – in a certain sense as a reflection on the above state of affairs – a redefinition of the English gentleman. It was not power and possessions, but rather education, morality and fine manners, that were now seen as decisive characteristics. J.V. Beckett sees the social constitution of this behavioural ideal as an attempt to defend the noble character of the gentry vis-à-vis the newly arising social groups.<sup>89</sup> This attempt, however, was doomed to failure. For if members of the gentry supposed that a socialisation producing ladies and gentlemen was possible only for the nobility, this was easily refuted by the sons of well-to-do bourgeois families being placed early on at schools specialising in the production of gentlemen, while their daughters were sent for ‘finishing’ to one of the establishments in Switzerland designed for this purpose. By the end of the nineteenth century, nothing of the lower gentry’s former noble status remained other than participation in the scenario of ‘country life’, a key component of the aristocratically defined habitus. On the basis of this determination of privileged ideals of behaviour, the purchase of landed estates remained, at least until the end of the century, both an economic and a social investment.

In contrast to the lower gentry, however, the aristocracy, which in English usage meant the peers and upper gentry, did not lose their position at the top of the social hierarchy. For although the hierarchy of nobility in England stood in an extraordinarily close connection with that of possession, the importance of the hierarchy of possession had grown further with the spread of capitalism. Simultaneously with this, the nobility lost many of their former structural advantages. It was only on this basis that the English aristocracy

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<sup>89</sup> Beckett 1986, p. 20.

could be integrated into English nationalism. For nationalism initially arose at the end of the *ancien régime* as a political movement directed against noble rule, stressing *national unity* instead of *social difference*. By successful strategies of marriage and appropriation, however, most members of the English aristocracy succeeded in maintaining a position in the upper ranks of the hierarchy of possession. There were certainly now more untypical new arrivals than before, but, in the process of industrialisation and urbanisation, many nobles were able to profit from their ownership of urban land, as well from the development of holiday centres and resorts. Other successfully invested in railway companies and colonial enterprises. It was in this historical phase, when capitalists of noble origin dominated the upper ranks of the possessing hierarchy, that they managed to define the habitus of the social élite as 'aristocratic'. Just as was the case with the monarchy, the refinement of 'age-old' aristocratic forms of behaviour involved a considerable degree of imagination: more precisely, the two processes mutually reinforced one another. For 'royalty' required the aristocracy as its background, whilst aristocracy in turn could integrate the legitimisation of the crown into its own social strategies. Neither fact altered anything in the basic transformation of an old ruling stratum into a social group whose position was increasingly dependent on the success of economic and cultural competition.

One reason for this was that it lost the institutional guarantee of its participation in rule. From the 'economic reforms' of the late eighteenth century, via the reform of the suffrage and development of parties in the modern sense of the term, through to the disempowerment of the upper house in 1911, there was a continuing expropriation of their possession rights over centralised government power. At the local level, the processes of limiting this rule proceeded differently. It was not uncommon for economic power still to secure immense political influence. Occasionally, as D. Cannadine explains,<sup>90</sup> the development was similar to that of the monarchy: when aristocrats finally lost their former share of power – often only after decades of hard-fought conflict – many of them reappeared as elected members of town councils or mayors, well suited to adorning these institutions with the (politically blunted) allure of their name.

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<sup>90</sup> Cannadine 1982, p. 55.

Secondly, the conditions for ascent into the aristocracy also changed. Until the end of the nineteenth century, the old pattern of ascent was fairly successfully defended, i.e. that integration into the upper gentry required a substantial landed estate, while nomination as a peer required additional influence either at court or in a number of constituencies, or else a brilliant career in government or administration, army or navy.<sup>91</sup> It is true that in the wars of the late eighteenth and early nineteenth century, many more new peers were appointed than during previous decades, several of these as a reward for military services. Taken as a whole, however, these appointments were confined to families that already belonged to the aristocracy, possessed landed properties, Irish or Scottish noble titles (which did not entitle them to a seat and a vote in the upper house), and/or were linked by marriage with other aristocratic families.

When 1880 saw 'the first direct entry of beer' into the upper house,<sup>92</sup> i.e. without first requiring a withdrawal from 'non-aristocratic' commerce, the ennobled brewer at least still met the traditional requirement of a landed estate. Only in the twentieth century were peers nominated who were neither already landed proprietors, nor granted such estates along with their new dignity. From this time, ennoblement in England has simply sealed success in bourgeois society. The ennobled, in their turn, contribute to reproducing the aristocratic veneer of bourgeois society in its specifically English form.

Nowadays, the aristocratic pomp with which bourgeois state power is surrounded in England bears the imprint of a national way of squaring the circle: a *unity of hierarchy and equality*. The mere existence of monarchy and aristocracy, and especially the manifold rituals of their performance, displays to the naked eye the rigid social difference that reigns in every field of bourgeois society. At the same time, the broadcasting of royal and aristocratic pomp generalises a situation that was formerly the exclusive privilege of the (high) nobility: admission to the circle around the royal person. There is no longer a royal court; that notion fell out of favour in the 1930s. Press and television, however, have in a certain sense made the entire nation into courtiers. This, at least, is more than any other bourgeois state has to offer.

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<sup>91</sup> Turbeville 1958, p. 370.

<sup>92</sup> Thompson 1963, p. 293.

### **Part Three**

**From *Ancien Régime* to Bourgeois Society: France**





## Chapter One

# The Development of 'Feudal' Power Relations

### a. The rule of the aristocracy

#### a.1. *Princes and knights*

In the mid-eleventh century, according to Duby, a new concept appears in written texts, that of *castellania*, literally 'castle rule'.<sup>1</sup> This description marked the acceptance of a condition that a few decades earlier (and in some regions still a few decades later) was criticised as a *mauvaise coutume*, an encroachment on customary 'right'.<sup>2</sup> It signalled the beginning of a new form of rule that would be decisive for several centuries to come, that of *seigneurie banale*.

Until quite recently, these developments were depicted chiefly as the result of a *de facto* dissolution of royal rule: from the end of the ninth century, supposedly, 'magnates' had appropriated their power of office as a hereditary possession, initially on the borders of the West Frankish empire, setting themselves up as lords over (other) counts in their region and thus establishing regular territorial principalities. Subsequently, in the tenth and eleventh centuries, many counts and viscounts managed to gain autonomy in relation to these princes, by successively

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<sup>1</sup> Duby 1991, p. 56.

<sup>2</sup> Poly and Bournazel 1980, pp. 94–5.

staking their own claims as independent lords – if not in law, then at least in fact – whose possession was hereditary. This process of appropriation of rule was also supposed to have affected the kings, who, though continuing in the tenth century to possess special means of ritual power, had otherwise been reduced to territorial princes like the others. In the eleventh century, earlier or later according to region, this process then extended to counts. Even their representatives, the castellans, appropriated their office as a private possession, demanding services and gifts for their own benefit, and asserting their rule [*ban*] around their castles. At the same time, the story continues, adventurers came to share in this process of appropriation of rule, building castles, establishing their *ban* and behaving and being described as lords like the others. The might of these local lords grew so great that the princes, including the king, increasingly accepted the hereditary character of their rule from the mid-eleventh century onwards. Eventually, at the end of the twelfth century, this process of fragmentation and hereditarianisation of a previously ‘public’ power is said to have reached its conclusion, with lords establishing themselves who had only partial castle rights, in terms of territory and authority, over a few villages or parts of these. Only as the crown regained strength, from the end of the twelfth century, did this period of anarchy come to an end, and private possession of generalised ruling competence started to be very gradually restricted once more.

Criticism of the adjective ‘public’, as still commonly used for Carolingian rule, would go beyond the bounds of the present essay. Here we need only maintain that the interpretation of the change in relations of rule as a process of fragmentation of previously generalised competences overlooks the underlying structural change in the basis of this rule and thus in its nature.

The *castellania* of the eleventh century, even if it developed in many cases out of contractual relations, was not just a splinter of an earlier practice of rule, but in many respects the beginning of a new one. It did not arise, as is often supposed, by armed men feeling obliged to organise better protection against the influx of warring tribes. North of the Loire, the Viking invasions came to an end in 930, and those of the Saracens in the south in 972. The majority of new castles, on the other hand, were built around the turn of the millennium or a short time after. They were thus not designed as protection against an external enemy – or at least not primarily so. The castles of the eleventh century were strong points for the subjection of peasants. Once established, the power of the lords could then fulfill functions of arbitration and protection.

The *ban* of the castellans was based on force, on the previously established generalised power of kings, and on the intimidation established and maintained by the raids [*chevauchées*] of knights who lived in the castles. As far as the castle lords were concerned, everyone was equal before the exercise of their rule. It did not matter whether they were peasant families who had previously worked for themselves on their own plot [*allod*], with only the obligation to maintain roads and castles by gifts and services, and help with defence in time of war, or whether they were forbidden to dispose of either their person or the land that they tilled. The ground rent that the castellans extracted was not tied to their power of disposal over land or a title of possession, but rested on the rule that was established over the inhabitants of a particular territory. Old privileges were abused, such as those of monasteries and abbeys, and new ones were not conceded without a struggle – at least initially. The knights were exempt from the *ban*, mounted warriors who took part in the forcible exercise of castle rule, along with its defence and expansion vis-à-vis other castellans even if they lived outside the castle.

In the different regions of 'France', the *ban* of the castellans assumed very varied forms. The most significant variations resulted from the regional distribution and specific form of demesne economy, survivals of which still persist today. Where what historians define as the 'classic' demesne economy prevailed, i.e. large landed estates worked by the *corvée* labour of unfree colonists, castle rule was in a certain sense the successor of the Carolingian *villa*, a combination of land monopoly and rule over people. (In these regions, knights from the castle frequently received land outside as a fief.) In other areas, especially in the south, the *ban* extended to peasants the majority of whom were free and possessed land of their own. (In these regions, knights often lived on land that had been in the possession of their 'family' for generations.)

The second major distinction was the differing regional extent of princely rule. The castles were important centres for the exercise of rule everywhere, even in Flanders and Normandy. But where princely rule was strong, castellans acted in agreement with the princes, or at least under their supervision. Although their rule was both personal and a hereditary possession, it was not independent. These and other regional variations (such as the extent and structure of church rule) inflected the further partition of *ban* rule, as well as its convergence at this time with the territorial rule of princes and kings (cf. below).

*Castellania* corresponded to the production structures of the turn of the millennium. The localisation of rule was the result of the efforts of the *vicarii* [representatives] for autonomy. Its material foundation, however, lay in the almost exclusively agricultural character of production and the low level of commercialisation, along with the very weak generalisation of Carolingian rule in practice. Yet developed castle rule was not just the fragmentation of an earlier ('sovereign') might. In the process of its assertion, it became at the same time more extensive, i.e. including people who had previously remained largely protected from this kind of appropriation, and more intensive, in that it affected areas of life that had not been previously exposed to any extraction by ruling power. The most important basis for this structural change lay in the potentially lucrative character of this new exercise of rule. Agricultural production rose and made greater extraction possible, while the growth of trade permitted the levying of tolls as well as profits for the lords from new or more frequently held markets. This led to competition between castellans. In regions where princely rule had broken up as a result of the rise of castle rule, or had never been successfully established in the first place, feuding between the lords of the castles made life uncertain for many decades, for peasants, townspeople, clerics and traders.

The reasons for the economic upturn have long been contested. It is now almost universally agreed, however, that the expansion of trade was rather a result of this growth than a precondition for it. The 'development of the productive forces' is also more rarely adduced as explanation, now that it has become clear that improved ploughs and the use of horses in agriculture dated from long before the time of this big upturn. As far as mills go, another factor that was commonly adduced, it has been pointed out in the meantime that these only released female labour and thus could not have been the basis for a general rise in productivity. Factors that remain include a change in climate, and above all the greater deployment of human labour-power – the means of production that remained decisive in this phase of development. We know today that a precondition for increased agricultural productivity was the recultivation of abandoned land and the clearing of forests. But this required more people. In an explanation that has become popular more recently, the growth of population occurred because the break-up of the demesne economy also brought to an end a particular inflection of the biological reproduction of labour by the ruling power. Recent research has shown how in those regions

where male (!) colonists had to provide labour services, the numerical ratio between sons and daughters was dramatically different from the figure for regions with different forms of appropriation by power. This suggests the conclusion that – direct or indirect – female infanticide was practised, and overall biological reproduction restricted in this way. The era of *castellania* put an end to this restriction, in so far as *corvée* labour very markedly declined. At the same time, as we shall return to below, the division of male progeny between legitimate sons and ‘bastards’, and the numerical limitation of the former among the upper strata of the aristocracy, became elements in the exercise of their rule. Taken as a whole, and in the long term, peasants profited comparatively little from the growth in production. If they did not go hungry, they had to work longer hours, to provide not just for themselves but to supply the increased dues that were demanded, and perform additional services into the bargain.

This deterioration in the peasants’ conditions of life was accomplished by force. Wherever, as especially in the border regions, free peasants had not only the right but also the duty to help with defence by force of arms, this was now challenged – not simply by regulation, but above all by the practical superiority of mounted and experienced warriors. The peasants did put up resistance, perhaps more often than is recorded in available sources. But the emergence of a stratum of professional warriors reduced their prospects of success.

Specialists in military art had long existed, but it was only with the change in methods of thrust and parry that a regular ‘profession’ came into existence. The most important aspects of this change were the introduction of stirrups – which had been noted in warriors coming from the east – and the invention of the heavy lance. The two went together, for only the firm seat that stirrups provided made it possible to fix a heavy weapon under the arm and ride to the charge in this way. If we follow Maurice Keen, stirrups were already widespread before the millennium, and with them the growing importance of knights. But it was only with the introduction of the heavy lance, which Keen dates from the second half of the eleventh century,<sup>3</sup> that the secondary role of the foot-soldier was finally sealed. This meant a rise in the importance

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<sup>3</sup> Keen 1987, p. 420.

of professional warriors, and consequently the effort of lords to bind them to their service by both material interest and vows. Knights remained exempt from the dues and services of *ban* rule, in so far as they possessed land of their own, and to a certain degree they also received 'presents' (initially revocable ones). At the same time, the possibility for peasants to assert themselves successfully against the power of the lords declined. Even if many of the knights who continued to live in the household of a castellan were provided for rather wretchedly, and had little to call their own apart from their horse, sword, lance and armour, their superiority in battle to peasants and townspeople already made them lords in this warlike era. The middle strata of society, to speak anachronistically, tended to divide in two: the position of the majority declined, but that of armed soldiers rose. It is, of course, men we are speaking of here; feudal society was always masculine in structure.

This stratum developed its particular behavioural norms and a collective biography. Through the transmission of tales of noble, courageous and pious knights, even the most sorry fellow who sat armed on his horse could see himself a descendant of these heroes. The legends and literature of the troubadours held indeed that poor knights should not be despised, since even if their limited means excluded them from the lifestyle that developed at the courts and was propagated as knightly *courtoisie*, the required habitus of their estate, it should not be ruled out that they might overcome their poverty by victory in tournament and boldness in battle. Poor knights, like poor peasants, lived in the hope of a better time to come. But unlike peasants, knights had a not unfounded hope of knowing this in their own lifetime.

By the end of the eleventh century, 'France' had very many more lords than ever before. In the ninth century, it had only been God, the king, and close friends of the two such as bishops and counts, who were described as *domines*. In the eleventh century the term was extended to castellans, though at first these were addressed generally as *seniores* or *sire*, reflecting their rule over the mostly younger armed men of the castle. In the course of the eleventh and twelfth centuries, the term *miles* [knight] also became the description of a lord.

Not only was the stratum of lords expanded in number, it also acquired an entirely new structure – based supposedly on blood. In the Carolingian age, a person's importance was decided above all by royal favour. The lords of this time lived in clans, membership of which was inherited by women as well

as men. Clans were linked together by marriage. This horizontal structure of the ruling stratum dissolved when the Carolingian rule broke up. It was now replaced by lineages [*lignages*], membership of which was inherited almost exclusively through the male line. This vertical transformation of kinship structures corresponded to the lords now basing their position on territory – as is clear from the appellation of lineages after their ancestral seat.

Because some aspects of *ban* rule involved succession to a ‘power of office’ – no matter how this was obtained and transferred – in the eleventh century the *ban* came to be seen as indivisible. At all events, it was not just kings and princes, but also the less powerful lords, who transmitted their *ban* rule and the territorial possessions of their *lignage* exclusively to one of their sons (especially so in the north). As a general rule, this would be the eldest son. Younger sons and daughters went into the church or were married off, possibly endowed with recent territorial acquisitions or an unexpected inheritance, but far more usually without anything of the kind. Dispute between brothers, extending to armed clashes, lay in the nature of such arrangements. The ruling stratum handled this situation by placing a high valuation on legitimate marriage (in harmony with the clergy), and declaring the offspring of extra-marital male sexuality to be bastards. It was a sign of special favour for any of these to inherit from their father. With the orientation of the aristocracy towards possession of land, sexuality was divided into legitimate and illegitimate. Those peasants able to dispose of their holdings, and also the poorer knights, adopted these new practices of inheritance very much later, if at all. Their offspring did not suffer under *fréragé* (the unequal preference for sons), but conversely they risked the danger of steady impoverishment. For the offspring of knights this meant the loss of their position as lords (see below).

#### a.2. *Bishops and abbots*

As long as kings remained powerful, there was in many respects a regular unity of secular and spiritual rule. Local exercise of rule was connected to the generalised power. The weakening and – at least in the south – complete dissolution of royal power thus altered church rule as well. In some cases – again especially in the south – the bishops expanded their earlier exemptions into *ban* rule: *castellania* and episcopal rule were then one and the same; in others – especially in the north – dukes or counts took the disposal of episcopal rule



into their possession. In some conditions, they then appointed members of their lineage as bishops, even if these were unable to read the mass. In other cases, they used episcopal rule for purposes of diplomatic negotiation, offered it for sale or let sees remain vacant for years in order to enrich themselves with their revenues. Less eminent lords also used methods of this kind. Castellans appointed priests as they saw fit, treated the revenues from tithes – an introduction of the Carolingian age – as their own, and had no qualms about offering them to laymen as fiefs – a practice that, as Lemarignier points out, continued until August 1789.<sup>4</sup> Many lords both secular and ‘spiritual’ collaborated in reducing church rule to no more than a power of appropriation. The localisation of church rule was matched by the local appropriation of intermediaries. Saints became a kind of local possession, and religious belief a matter of honouring local saints.

Respect for the dignity of bishops was destroyed by the position’s incumbents – if not all, then at least an overwhelming majority. The might of bishops, however, was limited above all by the upturn in monastic life. Monasteries administered the goods of salvation, in a literal sense inasmuch as they preserved the relics of saints, and in the conventional sense inasmuch as they prayed for forgiveness: this was the purpose of the permanent conduct of masses, the earliest form of a temporal rhythm making no distinction between day and night, summer and winter.

Abbots and to some extent also princes struggled against monasteries being taken into the secular rule of the *ban*, and by internal reforms secured their status as religious establishments. The late tenth century saw the development of a regular monastic reform, which only made the secular character of episcopal rule all the more evident. The eventual success of the Cluniac movement, which Duby saw as the most important fact of European history in the eleventh century<sup>5</sup> along with the advance in rural economy, meant the final end of the Carolingian church. Unlike most other monasteries, Cluny was founded in 910 not by a prince, and from the beginning its monks had the right to appoint their own abbot. The Cluniac movement developed in the eleventh century after the abbot had received from the pope in 997 (or 998) an exemption from episcopal rule. A year (or two) earlier, the abbot of Fleury

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<sup>4</sup> Lemarignier 1970, p. 201.

<sup>5</sup> Duby 1991, pp. 93–94.

had already placed his monastery under the direct supremacy of the pope. Later, when Cluny undertook the reform of countless other monasteries and established regular daughter institutions, the popes extended this exemption to all other Cluniac foundations. The Cluniac monks were thus not placed under the jurisdiction of the bishop in whose diocese their monastery lay, but directly that of the pope. According to Duby, this was a development corresponding to the autonomy of castle rule vis-à-vis the rule of the counts.<sup>6</sup> It is no wonder that the popes found precious few supporters among the bishops of 'France'. Many of these were of the view that the pope differed from other bishops only by a particularly honourable position, and not by additional authority. More important was the exercise of territorial rule that the French bishops developed. The peace of God [*paix de dieu*] and truce of God [*trêve de dieu*] were strategies of episcopal rule, though also more than this.

The first peace councils arose in the south, where generalised rule had been almost completely demolished, and both feuds among castellans and the robbery of peasants and urban communities were notorious; they were summoned by bishops in the late tenth century (the first of them at Charroux in 989, then the following year in Narbonne). In their role as princes, the bishops proclaimed the right of sanctuary in church, as well as the protection of churches, unarmed clergy and the poor. The territorial peace that had previously been proclaimed in the name of the king was now ordered in the name of God. Bishops used the content and vocabulary of the existing law, but they discovered a new means of compelling its obedience, that of excommunication. Peace councils were not called everywhere that was ravaged by aristocratic bandits. But in the second phase of their expansion, after 1020, princes too joined in the movement for a peace of God, including Robert II, king of France. The rest of the eleventh century saw the new institution develop in various ways, borne by new groups including the Cluniac monks. In the south it was dominated by sworn fraternities of knights, in the north by binding proclamations of bishops. Armed militia were employed on punitive expeditions. A further development – also a continuation and expansion of existing law – was the proclamation of a ceasefire in the name of God. This was limited territorially: no violence was to be used within thirty paces around the borders of a church or other holy place [*sanctuaire*]. The German

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<sup>6</sup> Ibid.

word *Friedhof*, now used for a cemetery, translates the 'peace courts' that thus arose around a church, places of refuge from the world of violence. Temporal limitations were also imposed; initially the ban on using weapons ran from Sunday evening to Monday morning; then Thursday was added as the day of the Last Supper, and Friday, the day of Christ's sacrificial death. Eventually, in the areas where the *trêve de dieu* was applied, conflict was banned from Wednesday evening to Monday morning. Jean-Pierre Poly and Eric Bournazel maintain that despite many convergent formulations, the strategies of cease-fire had varying social significance, as in some districts it was more attacks by knights on the poor that the truce sought to ban, and in others rather feuds among knights themselves.<sup>7</sup>

The attempt to tame warfare, after church doctrine had finally ceased to condemn it completely in the ninth century, was general. The church used the resources that were available to it: the oath of loyalty, and exclusion from the means of salvation, later supplemented by armed sanction. In the Middle Ages, what has come to be called 'mentality' was of still greater importance than at a later date. It was not as if the fear of divine punishment had its effect in every single case, but unlike the fragmented ruling claims of secular lords, God was a sanctioning instance that could not be evaded. The movement for the peace of God was not directed against armed men as such. By regulating the use of weapons in the name of Christianity, it made this at the same time into a privilege. In the texts of the eleventh-century peace councils, the terms *cabellarius* and *villanus* are regularly counterposed. The factual division of society was proclaimed in the name of God.

## **b. Hierarchy and immunity**

### *b.1. Structural change in seigneurial rule*

From the end of the twelfth century, the *ban* rule of the castellans developed into the form of *seigneurie banale*, survivals of which were to persist through to the Revolution. Since castellans sold off their ruling competences in parts, built up debts for their heirs and granted tenure to knights, the *ban* rule, in a

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<sup>7</sup> Poly and Bournazel 1980, pp. 246–7.

certain sense, shifted to the village. Knights who had formerly had no additional means of compulsion in their possession apart from land, now received ruling power over men: judicial authority, the ability to demand taxes [*tailles*], and authority to enforce baking, milling and wine-pressing monopolies, levy market fees or highway tolls. The divided generalised power became a component of a land lordship that was typical for the whole of 'France', though it took very varied forms. Rule over men at this time increasingly acquired the form of a fiscal burden on land. At the same time, by the application or threat of force, by purchase or the exercise of judicial power, peasants were deprived of their own land.

The shift of *seigneurie banale* to a village basis certainly involved partition. But this did not correspond to the process that had led to the rise of *castellania*. For whilst the increased localisation constricted the power of castle lords, it took place in connection with a generally strengthened hierarchy of rule.

The *sires* of the villages – who appropriated a title that had earlier been granted to castellans, along with parts of the *ban* rule – built fortified houses wherever they could. But they could not exercise their rule with complete autonomy. They were, as a general rule, vassals of the castellans or other great lords, and could count on being supported by these with armed force and judicial power. In this phase of feudalism, the character of personal relations underwent a transformation. There had certainly long been forms of vassalage in which reciprocal obligation involved a relation of subordination secured by a material connection. In the eleventh century, however, these connections were largely confined to the north, and became comparatively rare even there. Reciprocal oaths of loyalty were common, but these constituted rather a form of coalition for purposes of feuding, while fiefs, in so far as they were granted, were not extensive enough to guarantee provision and found a claim of exclusive allegiance. In the twelfth century, those ties that historians long took as the structure of 'feudalism' grew more frequent. Yet, even for this time, they cannot be interpreted simply as a form of organisation of armed force. Barthélemy, for example, established that in a third of the relations of vassalage that he investigated in the district where the de Courcy lineage ruled, the vassals were younger brothers of their lords.<sup>8</sup>

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<sup>8</sup> Barthélemy 1984, p. 196.

In the south, feudal relations were long unknown. What developed instead was a more or less contractual participation in the material proceeds of ruling power, known as *parage*; townspeople benefited from this as well. From the eleventh century, the feudal vocabulary became widespread also in the south. Land held by farmers for rent was now commonly described as a 'fief', and even the unfree peasants who cultivated such tenures paid homage to their lords. As distinct from this 'common fiefdom', with its obligation of gifts and services, there was also so-called honorary or 'gratis' tenure [*feudatorum honoratorum*]. Better-off peasants, knights or townsmen became vassals of a lord, paid homage to him and were henceforth obliged to give him counsel and support. Their possessions (or part of these) were now seen as a 'fief' [*feudum*]. If this allegiance was broken, the fief could be withdrawn, otherwise the vassals kept their power of disposal over it. This was also the form of vassalage that made the *de facto* independent castellans, in the twelfth century, into tenants of a prince or king, and the princes into vassals of the Capets. Contemporaries in the south described as *fief de bourse* the sale of *hommage* in return for a pension.

In the present context, the specific characteristics of the relations of tenure and vassalage are less important than the general tendency for rule over men to be based on disposal over land. This development, which came to prevail everywhere in the twelfth and thirteenth century (at different times and rhythms), had three main causes: the change in the conditions of armed competition due to the spread of monetarisation, the widespread interest in territorial peace, and the transmission of the lordly ideal of unlimited generosity. On top of this were obligations that arose from religious belief.

Armed competition for possession of rule, whether it was actually waged or was simply an inherent possibility, remained for the whole duration of feudalism the decisive component for the development and reproduction of rule. Yet this armed competition only contained a structural tendency towards concentration of rule if expanded rule decisively modified the starting conditions for future warlike conflict. This situation arose in 'France' with the spread of monetarisation.

The payment of armed retainers for their collaboration in extended feuds (wars) required money. Fortifications became more expensive once the employment of siege machinery grew customary. This favoured princes, who generally had greater hereditary possessions than castellans. On top of this

was the fact that both townsmen and clergy were prepared to pay something for the implementation of territorial peace, in other words control of the aristocrats by way of armed force and judicial power.

For a long while, rule had required generosity towards followers and the church. Anyone who wanted to be seen as a senior among lords had to endow monasteries and not skimp on the costs of entertaining his friends and guests.

For a while the castellans were able to hold their own, by turning part of their power competences into money. They let towns and villages escape certain practices of rule, or converted arbitrarily imposed 'gifts' into fixed money payments. They sold parts of their possessions to peasants who had supported them in the exercise of their *ban* in the villages and done well in the process, others to knights. They granted further competences as fiefs, securing support in this way. The monetarising of these competences only offered temporary relief, and the regularisation of revenues constricted the material basis of *castellania*, the more that costs of feuds and warfare rose. The former possessors of far-reaching *ban* rule were therefore now prepared to subject themselves as vassals to a powerful lord. In some cases, where other forms of persuasion were insufficient, there was a regular sale of rule to princes. Kings also increased the number of their vassals by the payment of compensation and pensions to lords who henceforth had to consider their lordship rights as fiefs. This development of a hierarchy of rule was expressed in the formation and extension of the concept of *lige hommage*. More precisely, this concept expressed a new kind of situation in notions corresponding to the established system of values: material preconditions for the exercise of limited ruling power were integrated into the vocabulary of personal obligations.

This emerging hierarchy altered the conditions of conflict over the limitation or regularisation of *ban* rule. For on top of direct conflict with local lords, the outcome of which would often be precarious and subject to revision, the possibility arose for both the inhabitants of small market towns (sometimes even villages), as well as monasteries, to turn to greater lords for the confirmation of old immunities or the granting of new ones. Local lords proceeded in a similar sense if for example they sought particular privileges for a market town located on their territory. Freedoms of this kind, and the promise that they would be sanctioned by force if need be, could in no case be obtained without cost. As a rule, they required immediate payment and lasting loyalty

[*fidelitas*], i.e. the readiness to support the protecting lord with payments, loans, and in certain cases even with armed men.

Immunity thus regulated not only the relationship between the possessors of *ban* rule and groups (or individuals) subordinate to them, it also regulated the relationship among lords themselves. In the twelfth and thirteenth centuries the struggle for immunity was the form in which the strengthening of princely (and royal) territorial rule took place.

#### b.2. *Theocracy in 'France'?*

When Pope Urban II called for help for the Christians of the east against the heathens, in Clérmont on 27 November 1095, what he demanded was no less than that the lords of the land should organise a campaign at his command. More than this, he demanded a transformation of the culture of rule: all those who had up till then been accustomed to struggle against each other over private disputes should now join together in the war against the heathens that had long been needed. In this way, brigands would be made into soldiers. The letter of Urban's sermon has not survived, but its tenor is clear from the chroniclers.

Urban's appeal followed a request from the Byzantine emperor. What was more precisely involved was an act of political alliance in the interest of an understanding with the church of the eastern Roman Empire. Nothing about Jerusalem was mentioned at Clérmont. But Jerusalem became the goal of the Crusades, as the crusading idea acquired a certain independence from papal policy.<sup>9</sup>

The dramatic effect of the appeal is well known. It was made in the south of 'France' where papal power was most securely anchored, but when powerful lords (already known by this time as 'barons') assembled at King Philippe's court in Paris the following year, to choose their leaders for this war, famous names from the northern princes were already represented: Godefroi de Bouillon and his brother Boudoin de Boulogne, both descendants of the Carolingians, the count of Hainault and the king's brother Hugo de Vermandois. It was not ruled out that the king himself would travel with them, but in Clér-

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<sup>9</sup> Watt 1988, p. 56.

mont the pope had confirmed Phillipe's excommunication for 'blasphemous marriage'.

If it was an individual and voluntary decision to 'take the cross', as Régine Pernoud emphasises,<sup>10</sup> it was also obedience to a papal command. The extent to which hopes for fame and fortune were bound up with it, according to W. Montgomery Watt, is undecidable both for individual participants, and for particular Crusades.<sup>11</sup>

In 1095 the pope not only called for a Crusade in the east, he also sent a letter to the knights and counts of Catalonia demanding that they should reconquer Tarragona from the Saracens. They were likewise promised forgiveness of all their sins (indulgence), and for their campaign, too, the pope claimed judicial authority over all participants.

As Duby writes, in Clérmont theocracy was triumphantly and ceremoniously staged.<sup>12</sup> The summons to war, the clearest expression of princely power, was the apogee of the imperial strategies that bishops of Rome had pursued since the mid-eleventh century. What made these possible was that the church of this time possessed an institutional matrix that, even if shaken and noticeably curtailed by lay power over church offices, continued to exceed any contemporary secular power in its universal claim. The improvement of land transport and the expansion of monetary relations facilitated its activation. The weaknesses of generalised secular power allowed an expansion in the competences of church courts along with a systematisation of law.

What is particularly important in the present context is that Gregory VII (1073–85) dismissed from office a considerable number of bishops in the south of France, thereby challenging the secular nobility's power of disposal over episcopal sees. *De facto* supremacy in southern 'France' in the late eleventh century lay with the pope and not the king. In 1081, the count of Provence paid homage to the pope as his vassal. None of the southern princes travelled to Paris at this time, as none of them were vassals of the king. In Clérmont, Urban sought to stabilise this situation. He banned any cleric from recognising either the king or any other secular lord as supreme master. The papal throne derived this supremacy over *regnum* from its monopoly of *sacerdotium*. This

<sup>10</sup> Pernoud 1977, p. 59.

<sup>11</sup> Watt 1988, p. 56.

<sup>12</sup> Duby 1991, p. 109.



struggle to regulate the relationship between sacred and secular power was fought out in the 'investiture dispute'. This was a bitter struggle for power as well as an intellectual battle.<sup>13</sup> In the name of the pope, arguments were raised against the sacral character of secular rule: 'In the public arguments of the investiture dispute, we can see what a weapon a well elaborated proof or a pertinent quotation could be.... The holders of powers learned to recognise for the first time the power of ideas'.<sup>14</sup>

At the end of the day, the French kings came out the winners in the investiture dispute. For the pope needed allies against his main adversary, the emperor, and was consequently prepared for diplomatic concessions. An agreement was concluded in 1107. The pope would keep the appointment of church offices, but the king would rule over the secular possessions of the church lords, which would also revert to him on their death. In the twelfth century, the popes ended their preferential treatment of the Cluniac movement. Henceforth Cluny had to seek support from the king of France. The monastery strongly supported the extension of royal rule in the county of Mâcon.<sup>15</sup> New monastic foundations, however, were less hostile to the bishops.

With the resurgence of the bishops, the influence of monastic schools disappeared. In their place emerged cathedral schools, institutions of an urban and relatively more worldly culture.

There were ups and downs in the relationship between the popes and the French kings. On the whole, however, the agreement of 1107 held good for almost two hundred years. The alliance was strengthened when Alexander III, threatened by an antipope, sought refuge in France in the 1160s. The Paris schools that jointly formed the 'university' of the twelfth century became centres of debate over the relationship between logic and religious faith as well as over the contents of the latter. These debates – leaving aside here their particular issues – marked the development of church rule. They were provoked on the one hand by new influences, especially translations from the Greek and the theories of Islamic scholars, on the other hand also by the multifarious counter-movements provoked by the efforts of the popes to hierarchise church rule and by the secular rule of church lords.

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<sup>13</sup> Flasch 1986, p. 185.

<sup>14</sup> Ibid.

<sup>15</sup> Duby 1982.

The twelfth century was the great century of heresies, and thus at the same time that of a more precise determination of the limits of orthodoxy. The church initially sought to convince heretics, involving itself in disputations and sending monks out on missionary work. If heretics died after being sentenced by the church to be burned at the stake, this was because an angry populace had delivered them to it. Even the Cathars initially escaped persecution by the church, despite rapidly forming a counter-organisation of their own. In the course of the twelfth century, the church's position hardened. At the council of Verona in 1184, instructions were given to root out the heretics. All princes were commanded to use their power against heretics and to enforce the laws of the church. In the struggle against the Cathars, which began in 1209 at the behest of the pope and ended as a war between Louis VIII and the count of Toulouse, this policy found one of its first gruesome climaxes.

The Cathars had their most substantial base among the rich and self-conscious urban burghers, and appealed to an original Christianity. They maintained that salvation could be attained only by knowledge of salvation. Such knowledge could be obtained both by reading (!) the gospels and by the act of *consolamentum*, which formally sealed the knowledge of salvation.

Already with the first crusade against the Cathars, which lasted from 1209 to 1213, the rule of the church in the south was restored. Those among the rich and powerful who escaped death now behaved almost without exception as loyal subjects of the bishops. The Cathar religion became a way of life of the poor. Crusades in the Occitan region continued, given this name because all those taking part were guaranteed the forgiveness of sins. In actual fact this was a war of conquest.

In 1229, when peace was made between the king and the count of Toulouse, regulations for the persecution of heretics were proclaimed. These were so painstaking that Lothar Baier has described them as 'elaborate police science'.<sup>16</sup>

The systematic establishment of the Inquisition was an important feature of the history of power in the thirteenth century. When Gregory IX withdrew the task of investigating consciences from the episcopal courts in 1233, entrusting it instead to the Dominican and Franciscan mendicant orders, he thereby institutionalised a new cultural form of rule: systematic use of distrust and

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<sup>16</sup> Baier 1984, p. 149.

mutual suspicion. To control the behaviour of Christians, the church made itself ruler of mental life in the name of God.

### b.3. *The development of royal rule*

By the end of the eleventh century, scarcely anything of the power basis of the Carolingian empire remained apart from traditions. Yet no effort was made to abolish royal rule. Participation in the choice of a new king declined, and even the ritual anointing failed to attract not only the southern magnates, but also many of the northern dukes and counts. Official written directives of the kings in the eleventh century generally have only members of the royal household as witnesses, great lords were not present on such occasions. Yet for all this, these great men still regularly confirmed a new king, either after the death of his predecessor or already in his lifetime. The crown was as a general rule inherited by the eldest surviving son.

By his 'election' as king, one of the less powerful princes of the former West Frankish empire disposed of the royal dignity. This did not at this time give him strength. Other princes also used the title of king, or strove to do so, and not even the religious ceremony was reserved to the king of the French alone; the princes of Normandy were also confirmed in their office in this way. None the less, anointment and the ability to heal scrofula were important hallmarks of royal dignity in this era. Possession of these means of power did not prevent the castellans in the principality of the Robertians from pursuing their independence and waging war against the king. But this possession must still be seen as one of the most important reasons for the later expansion of royal power. The symbolic power certainly required confirmation by victorious military policy. But once this got under way – most impressively at the battle of Bouvines on 27 July 1214 – the idea also came to prevail that conflict with the king had a different character from other feuds, and that the right of the king stood above that of the other princes. From the Gregorian reforms, the popes had indeed contested the sacral character of the power of secular rulers. This strategy was successful, but only to a certain extent. The de-sacralisation of secular rule (thus constituted as secular for the first time) made possible the particular form of rationalisation of rule that characterised European feudalism, and yet at the same time the sacral elements of secular rule remained key elements in its foundation. This is especially clear in 'France'. For the rule of

the Robertians rested for almost two centuries on nothing more than the limited resources of their domain, and the widespread idea that the royal dignity had a special place.

The king's domain consisted in the sum of his rights and competences. These included supremacy over a certain territory (the Île de France and the region around Orléans), but the kings also possessed, apart from the Robertian principality, rights over bishops and over a number of counts.

There were two preconditions for the expansion of royal rule: consolidation of the dynasty and a structural change in social relations, i.e. family constitution by biology and inheritance along with a stronger objectification of power relations. Already when the election of Hugues Capet (987–96) finally decided the rivalry between Carolingians and Robertians in favour of the latter, the lineage of the Robertians (later known as Capetians) was quite well structured in dynastic terms: vertical and not too numerous. In the eleventh and twelfth centuries the practice was reinforced of not dividing the lineage's ancestral seat, but transmitting it to the oldest legitimate son. When the edict of Moulin decreed the Crown domain as indivisible and inalienable in 1566, this practice had been followed for almost four hundred years. It was only with the expansion of royal rule that the younger sons received appanages.

Until the publication of Andrew W. Lewis's study on the inheritance practices of the Capetians,<sup>17</sup> historians were still divided as to whether the introduction of appanages for the royal princes represented a foolish weakening of royal rule or rather the use of family obligations for the purpose of consolidating it. It is now accepted that the kings did not develop any new policy in this respect, but simply followed patterns of behaviour that were generally prevalent in powerful lineages. If a family was unable to acquire new possessions, then the territorial basis of the lineage devolved undivided on the eldest legitimate son (or daughter, in the absence of male heirs). If it had expanded its possessions, then the new acquisitions were divided among the younger sons. The Capetians came into a situation of territorial addition to their rule in the thirteenth century, and this was the start of their practice of appanage.

Just like other ruling lineages, the Capetians also practised entailed inheritance, providing that the princes' appanages could only be inherited by legiti-

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<sup>17</sup> Lewis 1981.

mate sons in direct succession. If direct male heirs were lacking, the appanage reverted to the head of the family. Such a situation was quite common, due to biological accident, as for example when Jeanne, daughter of the count of Toulouse, whom the peace of 1229 recognised as sole heir (unless the count were still to have a son) and future bride of a royal prince, remained childless. The count of Toulouse was defeated in the wake of the Albigensian crusade. The fact that the county reverted to Capetian possession was the result of those imponderable factors that frequently persist, so long as the reproduction of rule remains bound up with the biological reproduction of a particular ruling lineage. Inheritance policy and the strategic deployment of marriages thus developed, along with the stronger connection of rule to possession of territory, into key elements of exercise of rule. As Lewis has pointed out, the important factor in the marriage of an eldest son was the rank of the bride, while in that of younger sons and daughters, it was rather the possessions of the future spouse or their political usefulness. For the entire duration of feudalism, armed force remained the basis of rule and the form of 'social' integration. It did not always need to be applied, so long as it was potentially available. The 'feudal right' that many depictions of feudalism present as a structural element with its own developmental tendencies, had no separate existence of its own outside the mentality of contemporaries and the power relations of the time. The custom of exchanging hostages when agreements were concluded (e.g. over possessions) clearly expresses the connection of right to direct possession of power. In the course of the twelfth and thirteenth centuries, exchange of hostages grew less common. Eventually it remained the custom only among the great lords. This shows how princes had become powerful enough to settle conflicts that arose between less great lords, or to lay down the law in other ways. The assertion of right continued to correspond to the practice of revenge, i.e. the offending party was punished by means of war. When ideas of the reciprocal obligations of lord and vassal grew more specific and general in the course of the twelfth century, the demand for a lord to revenge his vassal came to be taken as self-evident. Duby sees this reinforcement of an obligation as a structural precondition for the relaxation of family ties, which had been especially close in the previous centuries when revenge had to be exercised in the context of an absence of generalised power. This development would thus form one of the preconditions for the hereditary division of *ban* rule and individualisation. If we follow

this line of argument, the latter phenomena can be interpreted as the beginnings of a monopolisation of armed force and hence also of judicial power.<sup>18</sup> Royal judicial power also operated initially still as a kind of revenge. If we focus on the expansion of royal right, though this is not just a question of forcible measures, it certainly does mean possession of a rule that is expressed in the actual or at least potential application of armed force.

The first changes that were decisive for the expansion of royal armed force also contributed to the strengthening of the rule of other territorial princes: extension of agricultural production and the rise of urban wealth, as well as the indebtedness of many possessors of *ban* rule and the growing expense of armed conflict. Additional factors for the kings were that an idea of the higher value of royal right had been handed down, that connections with episcopal sees had been maintained beyond a narrow territorial origin, and that strategies for establishing territorial peace were by preference oriented towards the king.

Though their territorial possessions in the eleventh century were scarcely more than about 10 per cent of the former West Frankish empire, the Capetians enjoyed favourable starting conditions in that the Île de France was a crossroads for important trade routes. This favoured income from tolls and urban wealth.

Just like other princes, the kings also saw themselves pressed, in the last decades of the eleventh century and the early part of the twelfth, to grant immunity against payment to inhabitants of villages and 'towns' that had established themselves as sworn communes.

The spread of the so-called commune movement was far more restricted than historians previously supposed, and especially in the south it also included nobles. Communes were neither the only places disposing of freedoms, nor were their economic and fiscal privileges in every case more far-reaching than those of places whose *ban* lords had taken the lead in granting them particular rights. The particularity of communes lay in their 'collective' rule over the peace of the town. This meant that they enjoyed a legal autonomy, had their own judges, and an elected *maire* or *mayeur*. Whilst new foundations and market towns that possessed *franchises* remained privileged divisions of a

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<sup>18</sup> Lewis 1991, pp. 255 ff.

*seigneurie*, communes were legally independent. This particular character was based on the unity of the inhabitants and on princely guarantees.

In the late eleventh century, the kings accepted communes in their immediate domain. But Louis II (1108–36) at the end of his reign only favoured commune movements if these limited the strength of a local lord. In the crown domain, existing communes received in the twelfth century a confirmation of their rights. (The precise listing of these meant a legal establishment of the status quo.) New commune movements were forcibly suppressed. André Chédeville characterises this change in political strategy as the transition of the self-organised commune into an institution of the generalised right of the king. Already under Phillippe II ('Auguste'), the king was in a position to make the towns an instrument of his policy. Towns now had not only to purchase their freedoms, but also make regular loans and provide armed men. Many such soldiers took part in the battle of Bouvines (1214), the outcome of which sealed the destruction of the Angevin empire.

In formulating the demands of the king, his servants used the vocabulary of feudal relations. Towns were obliged to *fidelitas*, to material support and to participation in the feudal array in time of war. This did not make them vassals of the king, as was formerly supposed, not even the king's allies, but it did make them particular centres of a generalised royal (and princely) rule. Under Louis IX (1226–70) – St Louis as he was later to become – the customary description for this relationship of subjection was *bonne ville*, a notion that effaced distinctions of legal constitution, and highlighted the characteristic of subjection to the king. Kings regulated weights and measures for their *bonnes villes*, they confirmed corporations and even ordered the establishment of these. The more that towns were integrated into the exercise of royal rule (and subjected to it), the less direct utility they could draw from their legal independence. From the early fourteenth century, certain communes began to request the dissolution of this expensive privilege.

The development of towns expanded the financial basis of princely rule, and royal rule in particular. It also facilitated the (re-)establishment of episcopal rule and along with this reduced the structural importance of monasteries, which had served as religious centres for an almost exclusively agricultural society. Cathedral schools went together with episcopal rule. In the heyday of the medieval towns – which in France stretched from more or less the mid-twelfth century to the mid-fourteenth – urban culture became significantly

marked by merchants and intellectuals. Urban life was based on the material separation of town and country, or more exactly, on the participation of the *burgensis* in the exploitation of the peasants. A new cultural form also developed out of market development: urban forms of religious belief and the modes of thought upheld in the schools. From the late twelfth century, this cultural form came to exist alongside that of warfare. The Gothic architecture of the cathedrals was one expression of this new way of life.

In so far as the organisation of armed force in 'France' of the twelfth and thirteenth centuries was based on fiscalised forms of personal rule, as feudal relations came into existence by way of the purchase of rule or payment of a regular pension, and even townsmen fought in the king's 'feudal' array, so along with money the urban cultural form permeated that of warfare. Yet market relations remained subordinate to power relations, and the honour of a knight was incomparably higher than the wealth of a townsman. As long as this rank order was unchallenged, the two cultural forms did not stand in a competitive relationship. It was only in a few partial areas that antagonisms were apparent. Trial by duel, for example, was a particularly inappropriate means for settling the typical disputes of burghers. In the towns, therefore, this previously dominant form of legal procedure often fell into abeyance.

Just like towns, monasteries had an interest in the royal protection of their indemnity vis-à-vis local lords. In his work on the county of Mâcon, Georges Duby has shown how the requests of the Cluny monastery for protection offered in a certain sense an entry for royal influence in the region. With the support of the monastery, the king was able to conquer individual castles and thus the local rule of castellans. Initially this required military campaigns. Subsequently the royal dignity, the power basis already established, and – last but not least – the offer of payments, sufficed to bring other local lords to pay homage to the king as vassals. Royal supremacy over Mâcon was finally established when St Louis purchased the county from the childless Jean de Braine for 10,000 *livres tournois* and an annual pension of 1,000 *livres*.<sup>19</sup>

Similar developments can be observed elsewhere. If princes became vassals of the king in the twelfth and thirteenth century, and not simply in the sense of a friendly obligation among equals – as had long been the custom in the

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<sup>19</sup> Duby 1982, p. 417.



south, and initially for example also for the princes of Normandy – but with full recognition of royal suzerainty, this generally involved a combination of market transactions with traditions of knightly honour and the idea of the special significance of royal power.

On the whole, royal feudal rule in 'France', though it did not arise in quite the reverse way to the English case, did retain a completely different character. Whereas in England the royal monopoly of land along with the feudal rule of the kings already formed the basis for a general structure of subjecthood, the feudal rule of the French crown arose from the integration – through fiscal, kinship, or violent means – of previously more or less independent power. This did not automatically mean a general subject relationship. In many cases the barons, as the possessors of territorial rule came to be called with the strengthening of royal rule, received the same ruling power from the king in the form of a fief as they had previously possessed in their own right. There were important exceptions, as for example when St Louis gave Henry III, when the latter paid vassal homage to him in 1259, a fief consisting of the land that his father had lost in war. By and large, however, the 'feudal rule' of the French kings was to a considerable degree based on their fiscal resources, and not the other way round as was the case in England. It was only with the strengthening of their generalised rule that the French kings were able – though still not with complete success – to exploit their feudal relations fiscally, extracting money for wardship rights or marriage permission. In the words of Alain Guerreau:

In the eleventh century there arose the beginnings of a feudal system, in the twelfth century this system developed, but in the thirteenth century it died out in the arms of royal rule before it had acquired a mature form.<sup>20</sup>

The integration of the south was a major step in the development of royal rule. When the pope called for a crusade against the Albigensians, Philippe Auguste, though granting his barons permission to take part, considered that conflicts over religious practice in areas where he had no vassals were not his business. His son Louis VIII (1223–6), on the other hand, made the Albigensian crusade a matter for the French king, and for the *de facto* military conquest of new realms of rule. Although the young king, on the last of these

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<sup>20</sup> Guerreau 1980, p. 197.

'crusades', accepted homage from one lord after another and took towns successively under his protection, after 1226 rigid forms of occupation rule were practised in some places. Despite this, the southern regions – which differed substantially among themselves – remained distinct from the northern territories of the French crown in their different language, different legal notions, different social hierarchies and different cultural forms (see below).

From the late twelfth century, slowly at first but accelerating from the middle of the following century, the royal dignity became an attribute of genuine competences of power. The growth in royal strength was immense, but even so it remained well behind that of the English crown, as comparison readily shows. Whereas English barons were dependent for their own exercise of rule on the successful ruling policy of the kings, and therefore developed a comparatively rational relationship to their masters, rebelling against them or supporting them as a function of the generalised demands of their own practice of rule, the French kings remained protected from rebellion until the early fourteenth century. (French kings in the late Middle Ages typically died of illness or old age, rarely from 'politics'.) Instead, there developed in 'France' an understanding of royal rule that granted a much stronger significance to the sacral aspect. The organisational and personal participation of French kings in the Crusades was as decisive for this as was their particularly close relationship to the Holy See. In 1147, Louis VII was the first monarch to visit the Holy Land himself. One consequence of this, as Duby writes, was that other crusading knights made the acquaintance of a Capetian.<sup>21</sup> But the cult of French piety was systematically propagated above all by Philippe IV (1285–1314), who achieved the canonisation of his grandfather Louis IX in the year 1297. The French kings' piety now became a property that they inherited along with their royal dignity. Both kingdoms saw the beginnings of a separation of the physical person of the king from the possessor of royal rule. In England, the most important basis for this was the development of common law; in France it was the raising of the royal dignity to a cult.

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<sup>21</sup> Duby 1982, p. 464.



## Chapter Two

### Plague, War and Difference

In the villages, and especially in the towns, the poverty of many grew in the thirteenth century alongside the prosperity of a few. The increased population enabled the lords to drive indebted peasants off the land, and the masters in the towns to keep wages low. If the price of bread rose because the harvest was bad and grain was systematically held back until maximum profit could be made, it was not only those who lived anyway as *pauperes* who went hungry, but also the 'working poor' (Mollat). The regulation of urban freedom in the wake of the intensified fiscal power of the princes and kings resulting from war, increased the opportunities for the material and legal strengthening of the rule of the urban patriarchate. Disturbances broke out in many places in the late thirteenth and early fourteenth century, and even armed uprisings against the rich. In many districts, especially close to battlefields, artisans found hardly any work.

It is apparent from many sources that the growth in population slowed down at the end of the thirteenth century, if it did not actually go into reverse. The most important reasons for this crisis in biological reproduction were the social and technological forms of agricultural production. From the mid-thirteenth century, this production seems to have come up against its medieval limits. Strategies of

extensification had led to a situation in which ever less fertile land was ploughed up. Further forest clearances and draining of marshlands became more difficult. The foundation of new villages and towns came to an end. Many lords, forced to abandon *corvée* labour and money rents, saved on wages and transformed parts of their demesne [*réserve*] into cattle pastures. Seasonal engagement in the wars of king or prince was a more lucrative source of income at this point than income from land. That the appropriation form of *seigneurie banale* reached a crisis in the thirteenth century is accepted today as an unchallenged fact. Quite likely, agricultural production was already stagnant by the middle of the century. The number of births, however, did not yet fall. The marriage age of women was customarily low, and this social practice, which had arisen at a time of better prospects, persisted for a while to come. In regions where land was divided on inheritance, holdings thus continued to decline. This restricted the marketing of the agricultural 'surplus' to those quantities that had to be converted into money for the payment of dues and taxes. From the start of the fourteenth century, grain prices began to rise – earlier in some places, later in others. Along with the repeated royal manipulation of the coinage, this was one of the most important reasons for the decline in the purchasing power of wages. Poor nutrition and the wretched clothing of many people promoted the spread of infection.

Rats infected with the plague arrived in Europe in November 1347, on Genoese ships that had been in the east. Only a relatively few people sickened that winter, but, in early 1348, the disease spread to the Mediterranean coast. In summer it reached the towns on the Atlantic seaboard, arriving in Normandy and then England from Bordeaux, and via Paris to Rouen. It was conveyed by rats and fleas, spread by merchants and other travellers. In the cold season the disease stagnated, in spring and summer its transmission accelerated.

An effort is needed to imagine how within days or even hours, closest relatives, good friends, neighbours and strangers, the rich in their prominent houses and the beggars on the streets all died, their pain mixed with horror, their sorrow with fear of the black corpses and their fearsome stench. Those still alive after the first wave of the great plague threw themselves into orgies of remorse or savage pleasure.

Medieval people did not just live with their dead, for whom they prepared a permanent resting place [*cimetière*] in the midst of their towns and villages,

they also lived with death itself. The plague that struck Europe in 1348–50, however, was more like the biblical flood, God's revenge against Sodom and Gomorrah, the start of the end of the world.

The plague was socially selective. Though many of the rich also died, it particularly struck those whose position forced them to deal with other people. But the poor were affected much more severely, and as far as the mendicant orders went, we can tell from the number of their dead how seriously they took their vows of poverty and service to the poor.

The plague returned several times in the next half century. In many places the outbreak of 1400 was still worse than any previous. It seems as if many of those who escaped the first local wave of death remained resistant to further infection. In 1361–3, it was above all young children who died in many regions. Again in the later decades of the century, the young seem to have been especially affected. This led to a fall in the number of births.

In the first four decades of the fifteenth century, the population of 'France' was at least a third if not more nearly a half lower than in the mid-fourteenth century. This was not followed by the rapid recovery that Malthusian theory might predict, and that was notable in other regions of Europe such as England. Journeymen and other urban workers did indeed struggle for higher wages in this time of recurring epidemics, and not without success. Peasants also managed to achieve better conditions, as the lords needed labour to cultivate their demesnes. Not all of them acquired their freedom, but many more did than before, and many others won a reduction in dues and labour services. But in 'France' the age of pestilence was also an age of war.

The war that was later known as the Hundred Years War actually lasted a hundred and eighty years, from 1294 to 1475, and for almost a century, from 1384 to 1477, there was also recurrent armed conflict between the kings of 'France' and the princes of Burgundy. At the start of the fifteenth century, the dukes of Orléans and Burgundy fought to their mutual death. Both found numerous supporters, and both factions ravaged Paris.

The armies of the Middle Ages were not very large – contrary to what has sometimes been maintained – and not only was war confined to particular months of the year, it was also interrupted by ceasefires, peace negotiations and other breaks. Nor were all parts of the kingdom affected. On the other hand, the fact that many towns, villages, monasteries and even hamlets were

fortified, shows that the fear of attack was widespread. It was not just the hostile armies that were feared, but above all the bands of foreign mercenaries and indigenous knights who pillaged and burned houses. Many nobles made a name for themselves in this period by particular gruesome robbery. In many regions, the connection between war, economic stagnation and declining population is abundantly clear.

War led to migration. Life in a village that had almost died out was often too uncertain for those who survived an epidemic of plague. They either moved to the nearest fortified town – in some circumstances so as to protect their fields and vineyards from this base –, or in many cases to districts which they hoped would be spared by the war. A substantial peasant migration from Normandy to neutral Brittany is well established. Many were unable to escape the wars. They would have echoed the complaint of the priest from the region of Cahors who wrote at the end of the fourteenth century how he had so far experienced nothing but war in his diocese.<sup>1</sup> Over half a century later, Thomas Basin noted in 1461 that he had himself seen how the regions of Gâtinais, Chartres, Dreux, Maine and Perche, together with the Norman and French Vexin, Beauvaisais and Caux from the Seine to Abbeville, Senlis, Soissonnais, Valois through to Laon and beyond had fallen completely into neglect, were uncultivated, abandoned and covered with undergrowth. Fields were tilled only within the city walls, or close enough to fortifications for peasants to take shelter within when the warning sounded. When the first note of the bell was struck, the trumpet blown or another signal given to warn of a hostile approach, people fled their fields and vineyards and sought refuge within the fortified walls. Basin also reported how it was not unusual in these regions for oxen and plough horses to flee wildly in the same direction, as if possessed.<sup>2</sup>

As far as the wars waged between the kings of England and 'France' was concerned, it is not their immediate occasion and particular justifications that we will concern ourselves with here, but rather their most important causes and structural significance. The conflict arose from the strengthening of royal rule. In the course of the twelfth century and the first half of the thirteenth, a

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<sup>1</sup> Cited after Boutruche 1971, p. 25.

<sup>2</sup> Boutruche 1971, pp. 26 ff.

structure of rule had emerged in 'France' which could be described – using modern terms – as a loose federation of principalities under royal suzerainty. The 'fashion' of the time for allegiance to the king spread all the more readily in that it brought the princes certain advantages. The Capetians had acquired additional power by war, marriage, the systematic cultivation of their domains, taxes and fortunate biological circumstances. From this basis they set out to transform the allegiance of those who paid homage to them as vassals into a relationship of subordination. Many princes still had a material share in the 'royal' incomes in their own realms, but concessions of judicial power grew more rare. The kings claimed supreme jurisdiction in the fiefs of their vassals. The latter thus experienced an undermining of their power, precisely at the time when they likewise applied themselves to 'governing' their princedoms. This led to a general conflict. The sharpest axis however was with those vassals who, like the rulers of Aquitaine, were themselves kings, or – like the dukes of Burgundy – contested the suzerainty in 'France' with the Valois. When St Louis returned to Henry II in 1259, as a fief, part of the lands he had taken from his father after the battle of Bouvines, he did not renounce jurisdiction in these territories, and restricted the rule of the English kings by granting immunity to their subjects and towns. In the fourteenth century, both kings pronounced decrees and contested the possession of appeal jurisdiction. Many believe that the development of the *parlement*, the highest court of the kings of 'France', into a regular institution, was accelerated by these constant disputes.

When armed conflict broke out in 1337, it was not over succession to the throne. Though the claims of Edward III were not unfounded, and those of Philippe VI not too well founded, his coronation was accepted as a *fait accompli*. The war was initially between a royal overlord and his royal vassal – just as in 1294 and 1324. But because relations of vassalage had changed in the meantime, it very rapidly developed into a war for supremacy in the possessions of the English king on the continent. Only after the quite unexpected victory of the English crown at Poitiers, and in the further course of the war, did the claim to succession become an argument in the battle for supremacy in 'France'. The struggle was all the more acute because it stood in the structural context of a general conflict between territorial princes and kings. This made it a civil war with a highly uncertain outcome. When leagues to oppose



the king were formed in the provinces in the 1420s they were thus allied with the English crown, just as the rebels who rose up in the 1460s in the name of the *bien public* had as their real purpose the expansion of princely power. Even the dukes of Burgundy, in their contest for supremacy with the Valois, allied themselves with 'England'.

Georges Duby claims to find impressive signs of a transition from the king's household rule to statehood already in the late twelfth century.<sup>3</sup> But in the early fifteenth century it remained very far from certain that this statehood would be achieved in the form of the prevalence of the Valois dynasty and their reconquest of almost their entire lost kingdom. Though successive English kings, in the many peace negotiations that took place during the war, were prepared to renounce their claim to the throne, this was always under the condition of their complete power of government over the areas of 'France' that they dominated.

At the peace of Troyes (1420), the mentally ill Charles VI had indeed renounced the crown of 'France' for his successors, and agreed to the succession of the man who called himself not only king of England but also king of France, but this treaty remained without consequence for further negotiations. Already in the 1430s, the question again arose of the precise demarcation of the areas in which each king would be sovereign. The war was finally ended not by negotiation but by force. Despite many attacks by the English armies, the real threat to the Valois came from Burgundy. With the death of Charles the Bold in 1477, the struggle of the Burgundian princes against the supremacy of the Valois came to an end.

The English crown retained Calais (until 1558) and maintained its claim to the French throne. Only in 1820, with the treaty of Amiens, was this formally abandoned. None the less, English kings from Richard III (1483–5) on were prepared to concede their former enemy the title of 'king of France'.

On the English side, the prevailing view today is that the Hundred Years War was by and large undertaken for robbery, the official profits of war, trading opportunities on the continent, and the ransom money that could be extracted for the French king – for all those who sought to share in this

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<sup>3</sup> Duby 1987, pp. 166–7, 545.

directly or by the exercise of patronage. For 'France' such a judgement is quite impossible. Whilst certain individuals did grow rich from the official profits of war, and from robbery on their own account, the overall effect of the war was to cause or prolong the stagnation of material reproduction and thus also that of the income of the lords (cf. Part Three, Chapter 2).

The intensification of royal government is also unquestionable. The costs for the payment of nobles, who were obliged to provide services but received compensation, the hire of specialist military personnel, the ransom of Jean II, the manufacture of siege machinery, the construction and renovation of fortresses – all this required much money, which was indeed obtained. Despite the many concessions that were made to certain provincial assemblies, despite official (especially princely) and frequent unofficial 'participation' in the results of taxation, despite the allocation of part of the urban taxation to the costs of local fortifications, despite much refusal and evasion, enough money was found to continue the war. At the end of the Hundred Years War, following the countless special taxes raised time after time to finance an 'extraordinary emergency', the regularity of royal taxation was established. Likewise, the requirement to organise armed force and thus to promote the interests of the nobles involved, developed into the exercise of a royal supremacy over armed force (see below).

These two things were possible only because Charles V (1363–80) had started to accept the advice of capable men for his fiscal and military policy even if these did not stem from mighty noble lineages. His son was not mentally capable of such a systematic policy, but his grandson Charles VII (1422–61) maintained it in so far as he was able.

In the midst of war, therefore, the theory according to which those who lived in the kingdom were *gens de roi*, subjects of the king, began to acquire a certain reality. In 'France' the generalisation of royal rule arose from the structures of royal administration, and not out of an estate participation in rule. This was supported by the myth of kingship, particularly promoted, as P.S. Lewis has convincingly argued,<sup>4</sup> precisely by the occasional weakness of the royal incumbent. The peasant girl from Lorraine who convinced the king

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<sup>4</sup> Lewis 1968, pp. 81–4.

of his political mission and the possibility of victory, gave new shape to this myth not only by her role in relieving the besieged city of Orléans, but also by her death. If the thirteenth century saw a king who was later venerated as a saint, the fifteenth century had a young woman who died at the stake for the mission of a king of the house of Valois.

## Chapter Three

# The French *Ancien Régime*

### a. Emergence of the *ancien régime*

#### *Basic structures*

Societies of the *ancien-régime* type are characterised by objectified – i.e. monetarised and legalised – forms of personal rule, and by the integration of partial possession of rule into a system of generalised personal power. To put this another way, the nobility of the *ancien régime* arose by its possession of rule being sanctioned by the generalised (princely or monarchical) power. Conversely, the generalised personal power of kings and princes was based on the integration of noble rule. The nobility of the *ancien régime* was thus both social basis and product of the royal (princely) rule of the *ancien régime*.

The difference between a 'feudal' royal rule and a monarchy with an 'ancien-régime' structure does not result from particular institutional developments, such as the construction of an administrative apparatus, nor from the extent or regularity of taxation, nor again from a more or less fiscally marked 'economic' policy of its rulers, nor even from the development of a standing army; it results from the transformation of the foundations of noble rule. In 'ancien-régime' societies, this arose from a combination of private wealth and privileges. Decisive among the latter were not those anchored in custom or brute force,

but rather all those forms of material and symbolic privileging – extremely varied in their particulars – that the generalised power guaranteed. Irrespective of the historical and kinship ‘origins’ of the privileged groups, the nobility of the *ancien régime* arose from generalised personal power. If there is general agreement today that the noble lineages of the Capetian age derive in very many cases from those of the Carolingian, and that roots of the latter can be traced back to late Roman times, this does not mean that the nobility of the ‘French’ *ancien régime* arose in the Carolingian age. For what changed in the meantime was not simply the forms of kinship (as described above), and to this extent the biological reproduction of the ruling social group, but rather the basis of its rule. An analytical conception such as is proposed here, which places the basis of rule at its centre, forces a decision to be made as to the start of the *ancien régime* in France. If the *ancien régime* is seen not as an institutional form, but as a conflictual matrix of individual and generalised personal rule, it is tempting to depict the ‘rise of the *ancien régime*’ on the basis of developments in Burgundy, Brittany, Normandy, Gascony, Lorraine, the royal domain and the other princely territories. For most regions of ‘France’ saw the beginnings of forms of rule of the *ancien régime* type, initially in connection with princely rule. The nobility of the *ancien régime*, in any case, arose not as a ‘French’ nobility, but as Lorrain, Breton, Burgundian and so on. This circumstance had its effect right through to the abolition of the nobility under the Revolution, in different strategies of rule and differential possession of privilege.

Yet all these various noble estates did develop into a general – ‘French’ – noble estate. We can see the roots of this development in the Crusade movement, or in the battle of Bouvines. But differently from the English case, where an already generalised royal rule was *transformed* into *ancien-régime* forms and noble rule developed in connection with generalised royal power from the Norman Conquest if not already before, the connection of royal and noble rule in France could only develop with strategies for asserting a fiscal and military supremacy of the crown.

The typical *ancien-régime* connection of noble rule and royal power arose in ‘France’ first and foremost as a fiscal one. The local nobility was initially nothing more than an *aristocracy*, a social group with *de facto* dominance, in its relationship to royal rule – despite certain princely guarantees of noble privileges. By members of this aristocracy, which had very various origins in different

regions and continued to be very differently composed, being granted exemption from those royal taxes that were defined as dues from non-nobles, the nobles of the Burgundian, Lorrain, Breton and other princes became members of a privileged estate in the kingdom of 'France'. Conversely, the generalisation of royal rule could only be implemented and reproduced by a considerable part of the reproduction of noble rule being financed out of taxation.

Because the present work is directed at establishing the reasons for the specific 'national' forms in which the depersonalisation of rule took place, the following presentation will depict the emergence of *ancien-régime* forms in the context of royal rule. For it was this generalised matrix of rule that eventually experienced a revolutionary transformation into bourgeois society.

#### a.1. *Estate constitution of the nobility*

The oldest surviving royal *lettre d'anoblissement* dates from the year 1285. Since the king claimed power of definition over the higher ranks of the social hierarchy, this date marks in a certain sense the beginning of the long-lasting process of transformation leading from the aristocracy of the Capetian age to the French nobility of the *ancien régime*.<sup>1</sup> The rank and privileges of members of this group were determined in the context of generalised royal rule.

In the late eleventh century, and continuing during the twelfth, the aristocracy in 'France' was almost identical with the 'vocational' estate of knighthood. Though it is unclear whether every man whose precedence was established by his origin in a famous lineage was actually dubbed a knight, it is certain on the other hand that knighthood signalled here, contrary to the case in Germany, reception into the community of nobles. Preconditions for knighthood included possessions sufficient for a knight's equipment, as well as specific knightly (above all, therefore, military) modes of behaviour. In special cases, exceptional bravery could make up for inadequate possessions.

The knightly ideal was widespread in all Christian kingdoms of the Middle Ages, but nowhere did it attain the same importance as it did in 'France'. The contemporary weaknesses of princely and royal power demanded that the stratum of lords should be self-confirmed in its existence and also self-

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<sup>1</sup> Cf. here Contamine 1971, p. 142.

recruiting. Particular modes of appearance and behaviour contributed to a knight's being accepted by other knights in the most far-flung parts of the kingdom as one of their own. The Crusade movement and the troubadours generalised the conception, and in a certain sense also the reality, of the modes of thought and conduct of a ruling stratum: its *habitus*. The knightly ideal differed from *habitus* strategies of today inasmuch as it had in no way to be constantly reproduced in social practice. For anyone who had been dubbed a knight thereby rose into an aristocracy that was honourable, courageous and Christian, even if its individual members robbed, destroyed, and hacked Arabs to pieces.

The first royal *lettres d'anoblissement* were almost equivalent to the dubbing of knights. The later important distinction between *noblesse d'épée* and *noblesse de robe* did not yet exist.

Even at a time of far-reaching unity of the aristocracy and the knightly estate, the earlier importance of descent still persisted. (To this extent, daughters of eminent lords were likewise deemed to be 'noble'.) There was also a hierarchy of nobility, headed by the brothers and sons of the king, then his female and more distant relatives. Real power, however, lay with those who in the thirteenth century were described as barons. To reiterate a point already made, all who possessed considerable ruling power, whether they were dukes, counts, viscounts or powerful castellans, were counted as barons, irrespective of whether they had inherited their power, had been granted it by the king, or had won it by force. The content of the description of baron and its rapid spread indicates particularly well how the 'nobility' of the Capetian age was above all an aristocracy with *de facto* rule, rather than a social group constituted by royal power. Many barons were indeed nobles of a prince, confirmed by him in their inheritance or in their rule, but others had established their right independently.

When Jean II called on the barons at the start of his reign (1350) to stand by him in time of need, he had a list of 340 names.<sup>2</sup> These were, in a sense, the upper stratum of the aristocracy. Below the barons were the (less powerful) castellans, and those *sires* who occupied a *maison forte*, rode to war as knights, and possessed a share, however great or small, of local *ban* rule. For this lower stratum, origin meant little in the thirteenth and fourteenth centuries, and

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<sup>2</sup> Cazelles 1982, p. 65.

even in the fifteenth and sixteenth; a knightly lifestyle, and later a noble lifestyle, was all-important. Often this lifestyle differed only very little from that of their peasant neighbours. Historians like to cite the example of Guichard Vert (Guichardus Viridis), discovered by Eduard Perroy, who when he died in 1287 left a chessboard as his only 'prominent' possession.<sup>3</sup> Among those knights who held little land or lordly rights, such conditions of life were very widespread at this point in time.

Philippe Contamine estimates the number of those deemed 'noble' at the beginning of the fourteenth century at between 40,000 and 50,000 families,<sup>4</sup> and for the late fifteenth century at some 10,000 less.<sup>5</sup> If these estimates are correct, then the non-religious nobility shrunk by about a quarter in the course of two hundred years. This decimation was caused by the plague, by long-running wars, and the general reproduction risks of noble families, which led to around half of all noble families disappearing each century until the early-modern age, as they either died out biologically, or lost their claim to nobility due to impoverishment or political miscalculation. It follows conversely from this state of affairs, which has entered historiography as the 'law of extinction', that between the Middle Ages and the early modern era the social rank of a considerable number of noble families was of relatively recent date.

In the fourteenth and fifteenth centuries, conditions for membership of and access to the *gentillesse* underwent a change. The most important causes of this, for our present purpose, were the financial distress of knights, changes in warfare, and the fiscal power of the king and princes. The financial distress of knights arose from expensive obligations and wants, from the inflationary devaluation of monetary income from lordship rights, as well from as the difficulties of asserting these. In the south, where much land was held in *champart* – a form of participation in kind (to a varying degree) in the harvest – the lords profited from rising grain prices, whereas in the north the crisis of *seigneurie banale* was a widespread phenomenon – again with its regional differences. Many lords sought to protect themselves against such effects. It was thus that the new form of unfreedom [*servage*] was raised to a legal status in the fourteenth century, for all those who could not buy themselves free of

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<sup>3</sup> Perroy 1962, p. 29.

<sup>4</sup> Contamine 1976, p. 31.

<sup>5</sup> Contamine 1971, p. 139.



it. 'From morning until evening', and 'lock, stock and barrel' was how legal doctrine defined those in bondage to the rule of a lord. (Though this did not mean that such rule could always be exercised in practice.) Also widespread was the taxation of peasants by their landlords, the rigorous implementation of milling and wine-pressing monopolies, and the forcible appropriation of common land. This was of limited use to many lords, who did not possess the strength to enforce such strategies of appropriation in the long term. It could lead to indebtedness, and the burdening of landholding with a *rente perpetuelle*, a kind of permanent mortgage. The extent of financial difficulties varied, but it was widespread at all levels of the aristocracy, and grew with the shortage of money that at the start of the long wars developed into a central problem for 'the government'.

It is against this background that the development of royal policy should be interpreted. From the time of Philippe VI (1328–50) French kings awarded *rentes*, partly for life, but increasingly in the form of a hereditary claim on the royal treasury. The number of these *rentes* or pensions continued to rise. Nine hundred were granted in 1484.<sup>6</sup> Virtually all princes of the blood, other mighty vassals of the king, but also a whole series of less prominent servants, received claims of this kind on the crown. For the year 1470 P.S. Lewis has calculated a figure of 94,000 *livres* in pensions or gifts, in other terms, 35 per cent of the king's net revenues. Figures such as this can give only an approximate idea, as these claims had to be converted to money in a roundabout way, and not always successfully,<sup>7</sup> and even the calculation of royal revenues provides only a point of departure. In our present context, the decisive point is the general scope of the financing of the lords' reproduction out of the generalised power of appropriation. Whilst the king did demand the assistance [*auxilium*] of his vassals in time of need, the extent of this was always subject to negotiation, and the burden was shifted down the hierarchy. Moreover, in raising taxes, the king had to depend on the rule of local princes and castellans. In this way, local lords – in part officially, but at all events *de facto* – appropriated a considerable share of the sums collected.

For most of the poorer knights, this kind of financial participation in the royal fiscal power was unattainable. This directed them all the more towards

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<sup>6</sup> Lewis 1968, p. 109.

<sup>7</sup> Ibid.

war as a form of appropriation. If wars were not only the enterprises of appropriation that we have already pointed out on a number of occasions, they were also a way of life for the lords, an entertainment and an obligation at the same time. In the fourteenth and fifteenth centuries, however, wars also developed the character of a seasonal occupation in the service of the king or prince, and at his expense. The development of the service obligations that Philippe Contamine has detailed in his splendid work on the relationship of war, state and society in the late Middle Ages,<sup>8</sup> needs no further rehearsal here. The decisive point is that the new kind of 'feudal' obligations that were introduced with the generalisation of royal power, affected both the vassals of the king and their own vassals (the *arrière-ban*), and that these all were paid.

For the years 1369–80, Contamine has established a more or less regular payment of soldiers. If we bear in mind that in the region of Bais-Commun, for example, 70 per cent of the castellan's vassals under the reign of Philippe VI had not even the annual income from their land and lordship rights that would purchase a barrel of wine,<sup>9</sup> the great importance attaching to regular employment in 'the king's wars' needs no further explanation.

From the time that the Black Death added shortage of money to shortage of labour, it became hard for the lowest level of the aristocracy to maintain their status as lords. At the same time, opportunities for seasonal occupation in warfare deteriorated as a result of changes in the organisation of armed force. Symptomatic of this transformation in armed force were the attempt to restrict the autonomy of knights, and the efforts of princes to engage specialists on a long-term basis (see below). But at precisely this time the proceeds of robbery campaigns also declined, as the result of repeated plague, economic stagnation, and the sheer repetition of plunder. Eventually, at the end of the long wars, the prospects for military booty and – for great lords – official reward declined due to the reconquest of the regions occupied by the Plantagenets. Taken as a whole, these developments promoted a readiness to systematise new and previously neglected strategies of appropriation. First of all, many nobles now entered into the service of the magnates. As in England, there now developed also in 'France' the custom of wearing the *livrée* of the lord that one served. Another tendency was for lords to have their land

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<sup>8</sup> Contamine 1972.

<sup>9</sup> Fourquain 1975, p. 568.

systematically cultivated. It is generally the practices of richer lords that are documented, especially lords of the church, and it is open to question how many poor knights were in a position to employ labour-power in order to extract a profit from what remained of their *réserve*, to buy back land or lease it out on so short a term that they could profit from the increased demand for farms. Historians do agree however that, taken as a whole, *seigneurie banale*, which in the early fourteenth century had seemed on the decline, was newly reinforced in subsequent decades. Conclusions of this kind must naturally allow for substantial regional differences, as well as differences in strategic opportunities between poorer and richer landholders.

What is important in the present connection is that the material poverty of many knights vis-à-vis their peasant neighbours, not to speak of many townsmen, which was already notable before the comprehensive reproduction crisis, grew more acute in the late fourteenth and fifteenth centuries. (Direct purchase by townsmen of land rights, though documented as early as the thirteenth century, remained rare until the sixteenth.) In this situation, the notion of a noble heredity gained new significance. Knights unable to afford any kind of display insisted all the more forcefully on privileges – such as burial in a monastic cemetery – that were denied to peasants.<sup>10</sup> They were also quick to prove their membership of the local nobility when barons and castellans appeared ‘as nobles’ – even in rebellion against the king.<sup>11</sup>

By and large, the social strategy of defining ‘nobility’ as an inherited quality was not unsuccessful. But for those most in need of a social validation of this definition, little protection was afforded until the seventeenth century. The ‘French’ nobility of the fifteenth and sixteenth centuries transmitted their social status to their legitimate descendants, but only on condition of a noble way of life. Poverty meant the loss of nobility, though not always immediately.<sup>12</sup> Also, for the ‘French’ nobility until at least the fifteenth century, participation in war remained obligatory not as a function of feudal regulations, but as confirmation of their estate. This connection of way of life and status was the result of strategies of social exclusion. Princes and kings adopted the contents of these, and sanctioned them by their exercise of rule. For instance,

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<sup>10</sup> Perroy 1962, p. 29.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

when in 1470 Louis XI made all non-nobles who had acquired fiefs in the duchy of Normandy into nobles, this was on the condition that they 'comport themselves in all ways like the other nobles in the said country'.<sup>13</sup> It was already true that a considerable number of nobles pursued trade or other occupations untypical of the nobility, but in the course of the fifteenth century the notion of *dérogeance*, i.e. that certain behaviour necessarily brought with it a permanent or at least temporary loss of noble status, gathered strength. (In the case of *dérogeance*, too, there were considerable *de facto* regional differences until the end of the *ancien régime*.)

Whilst the hereditability of nobility in the fifteenth and sixteenth centuries remained linked to the condition of noble lifestyle and hence *de facto* a certain material status, already in the fourteenth century successful exclusion strategies had been pursued against collective strategies of ascent by the wealthy. At this time, royal officials such as the *prévôt des marchands* in charge of Paris markets, *échevins* (aldermen) and lawyers had to be addressed as *sire* or *chevalier ès lois*. Rich Parisians who claimed nobility rode to battle armed as knights, and organised tournaments just like any others. This 'parallel nobility', as Raymond Cazelles terms it,<sup>14</sup> came to an end in the second half of the fourteenth century – due to exclusion strategies of the land- and *ban*-possessing nobility, and very likely also the change in military organisation. Until the sixteenth century, there was no general access to nobility through office in 'France'. With the possible exception of the Dauphiné and three cases of an ennoblement of town lords by Louis XI, the 'French' nobility remained until this time a *noblesse d'épée*.<sup>15</sup>

Accession to nobility required as a general rule a letter patent or *lettre d'anoblissement*, which could be given as a reward for services or against a substantial payment: until the seventeenth century, not only kings could give *lettres d'anoblissement*, but the territorial princes as well. The king's legal advisers were certainly of the opinion that princely ennoblement needed confirmation by the king, but in fact the crown regularly accepted these nobles as its own.<sup>16</sup> The second possibility of advance was the 'silent' one. This happened either by the purchase of a landed estate, the cultivation of an appropriate

<sup>13</sup> Contamine 1971, p. 142.

<sup>14</sup> Cazelles 1982, pp. 81–4.

<sup>15</sup> Contamine 1971, p. 143.

<sup>16</sup> *Ibid.*

lifestyle, or else – until the late sixteenth century – by five witnesses swearing that the aspirant's father was free of the *taille* and had lived the life of a noble.<sup>17</sup>

What was decisive for the emergence of a 'fiscal' nobility was the generalisation of royal judicial and fiscal power. Privileges that had been already established, and in part those that had been sanctioned regionally by the princes, were as a general rule accepted by this power. In this way, they were constituted by power. Even freedom from *taille* only ever became a definitive characteristic of the nobility when the kingdom was divided into areas of *taille personnelle* and *taille réelle*. In the south, where the *taille* was levied on 'non-noble' land rather than on persons, release from the tax was possible through the acquisition of such land. Estate privileges were most evident in relation to judicial power. In criminal cases, in particular, nobles enjoyed a different law from non-nobles (cf. below, however, on benefit of clergy).

The fact that the nobility in 'France' was largely absolved from direct taxation not only explains why royal fiscal power could be extended relatively easily, despite a certain resistance; it also explains why it was not only members of the nobility who opposed too ready an access to their estate. For as the number of nobles increased, so the number of taxpayers declined. The possibility of simply usurping a new social status was checked therefore at the local level. This facilitated the assertion of the notion of a nobility of birth.

In the wake of the constitution of this nobility as an estate, practices of inheritance underwent a further change. In the north, where primogeniture had been very widespread, younger sons subsequently received a greater share of the family inheritance; in the south, where *partage* of the common legacy had been commonly practised, the custom developed of favouring the eldest son.<sup>18</sup> The result was that the different forms of inheritance converged. This prevented an 'upper stratum' of the richest noble families from establishing itself alongside the territorial princes, and stabilised the typically 'French' development of a comprehensive noble stratum – though even at the time of its formation this was already not completely dominant in material terms.

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<sup>17</sup> Huppert 1977, p. 8.

<sup>18</sup> Lewis 1968, pp. 205–9.

### a.2. *Generalisation of royal rule*

In 1357 the dauphin (later Charles V) issued a decree that recognised local rights [*coutumes*] including that of *seigneurie banale*. This had scarcely any practical significance. It arose in a situation in which the existence of the dynasty was endangered, if not that of the royal rule as a whole, and can rather be seen as documenting the conditions of this rule. In *this* respect, the decree of 1357 can be compared with Magna Carta. The latter was the result of a crisis of government. The conditions of royal rule that were formulated at that time aimed at a regulation of the exercise of royal power, but its generalised character was not contested, being in fact even promoted. The French case was different. If we leave aside the demands for administrative reforms that were advanced and the concessions to these that were made, given that these appear in one form or another in any crisis of government and rule in societies of the *ancien régime*, the intention of this document seems rather to have been one of support for royal rule under the condition of its limitation. Generalisation of royal rule was to arise from fiscal, legal, juridical and military assistance to autonomous noble rule.

In point of fact, the assembly of the estates of Languedoc (i.e. northern France) that the dauphin summoned in late autumn 1356 and again in the two following years, after the French army had suffered a crushing defeat at Poitiers in September 1356 and Jean II been taken prisoner by the English, did not have any notable political significance. Both the royal administration and deputies from the estates considered referring the discussions to regional assemblies.<sup>19</sup> Far more decisive at this time were the effects of the devaluation of the coinage to which the dauphin resorted in order to pay his father's ransom. The widespread discontent that the economic consequences of this manipulation aroused among the Paris citizens led the leader of the merchants there, Etienne Marcel, to ally politically with the rebellious peasantry.

From early in 1358, first of all in the Beauvaisais, then spreading rapidly throughout the north, peasants took up arms in protection against the marauding soldiery. Though purely a defensive measure, the *jacquerie* as it was contemptuously named (from Jacques, the nickname for a peasant), was treated as a crime. Under the leadership of Charles of Navarre (who had

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<sup>19</sup> Lewis 1968, p. 336.

recently been the dauphin's prisoner, and was later to be an ally of the Plantagenets), the nobles bloodily defeated the uprising. Once Etienne Marcel's policy had suffered this setback, he was killed by the Paris burghers. The city then surrendered to the dauphin and abandoned its previous demands for reform. The end of peasant and urban revolt was far more significant than the assembly of the estates in maintaining royal rule during the absence of Jean de Valois, as the king had described himself on his capture.<sup>20</sup>

We shall now go on to discuss developments in the royal military, fiscal and judicial power, as well as the extension of rule over the clergy and the towns. The generalisation of royal power was the most striking characteristic of the development of rule in the second half of the fifteenth century and the first half of the sixteenth. Its unifying effect however remained limited. There remained local variation in laws, taxes, structures of administration and representation. But from the confirmation of particular freedoms that was demanded in 1356, and with the incorporation of new territories into the kingdom from 1202 through to 1477, there gradually arose a system of differentially privileged participation in generalised power. This form was finally implemented only in the mid-seventeenth century. Its military and fiscal preconditions, however, already developed in the two previous centuries. Besides the material linkage of the nobility to royal rule, the appropriation of military organisational power by the crown was also decisive.

#### *Development of royal armed force*

Three elements characterise the structural change in the organisation of armed force: the expansion of the labour market for warriors, strategies for the 'real subsumption' of fighting men to a military command, and the establishment of long-term conditions of employment.

When the kings of 'France' possessed enough power to include the so-called *arrière-ban* in their military contingent (i.e. to extend this obligation to towns and subordinates of the royal vassals), though they still had recourse to the vocabulary of feudalism and its structures of legitimisation, on closer inspection this was not an expansion of the feudally-based military organisation. The summoning of 'the nobility' that had to precede that of the *arrière-ban* was in no way limited to vassals of the king, but extended to all who were

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<sup>20</sup> Lewis 1968, p. 80.

indicated as accepted nobles in the areas of royal suzerainty. The obligation of the French nobility at the turn of the fourteenth century also differed from a feudal organisation of armed force in the fact that it had no fixed time limit, though on the other hand service was no longer expected without reward.

After the mid-fourteenth century, the *arrière-ban* was only rarely summoned. For a certain period, this obligation had played a central role in the financing of war. Though the service could be fulfilled in one's own person, the crown promoted money payment as a possible alternative. As taxation became easier to levy, the necessity of summoning the *arrière-ban* declined, though this was still practised occasionally even in the seventeenth century. The most important form of recruitment came to be contracts of service. As a rule, these were made for one month at a time. The supply of knights was large enough to extend existing *lettres de retenue* or conclude new ones. On the other hand, the short duration made possible immediate reductions in outlay if the number of those engaged could be lowered – for whatever political, military or seasonal reasons.

Nobles continued to fight in the king's armies. Their payment corresponded to that of mercenaries.<sup>21</sup> Differently from the English case, whilst there were a few nobles in 'France' who did not ride to war even in their prime, there was no tendency towards the demilitarisation of an entire stratum of nobility. *The constitutive importance of warfare for the entire nobility in 'France' endured for much longer than was the case in England.* This estate recruitment, however, was no guarantee of military discipline: on the contrary. Like other princes of the time, therefore, the kings of 'France' also made use of secular knightly orders. These very likely arose in a similar way to fraternities among artisans: as ties of mutual support in the troubles of life in this world and the next. As distinct from these 'societies of knights', as J. D'Arcy Bouton calls them,<sup>22</sup> also from the sworn orders that generally existed only for a short time, the courtly orders that were founded by kings and territorial princes in the mid-fourteenth century – and repeatedly again over the next two hundred years – were subordinate to a lord on earth as well as in heaven. Their particular characteristics were an egalitarian internal structure, untypical for this time, and the moral and religious basis of service to a lord. The knightly orders of

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<sup>21</sup> Contamine 1972, p. 538.

<sup>22</sup> Cited after M. Keen 1987, p. 280.



the late Middle Ages inherited the ideal of self-discipline. What was new was that this was now subordinated to a quite specific purpose, the service of a secular lord, and in this way it also facilitated the establishment of a kind of group discipline.

In a certain manner, the foundation of these courtly orders marked the beginning of efforts by the princes to gain permanent command of a nucleus of highly skilled soldiers whose conduct would not be primarily oriented to prospects of individual gain. They therefore rewarded members of these orders correspondingly well.

The development of a morality of service in the guise of a renewal of the old knightly ideal took place at a time when the manner in which wars were waged had begun to depend only to a lesser degree on the individual prowess of the knights. After the battle of Poitiers (1356), the French kings confined themselves for years to defensive measures, in the hope of wearing down the Plantagenet enemy with his greater problems of supply and logistics. This kind of protracted war, in which the idea was to avoid battle, was a break with tradition. For the knightly mode of combat had been developed for short campaigns culminating in a well-ordered battlefield, presenting the opportunity to take prisoners and gain honour. From 1356 to 1369, however, the French side's efforts were more like marauding campaigns: short attacks on enemy territory with a view to plunder and intimidation. That this departure from knightly combat tradition was due not only to a political and military conjuncture is shown by the fact that starting with the battle of Crécy in 1346, knights generally dismounted from their horses before battle commenced. Though the military importance of infantry declined in the fourteenth and fifteenth centuries, knights now fought frequently on foot. Still more significant was the claim of commanders to decide before the start of a battle whether prisoners should be taken or not. 'Murderous war' had been up till then generally a non-noble affair. Knights did not fight to the death, but with a view to ransoming their opposite number. The conduct of war was thus marked by private appropriation. Forbidding this conflicted not only with the military self-conception of the knightly life, but with its economic and cultural self-conception as well.<sup>23</sup>

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<sup>23</sup> Contamine 1972, p. 197.

At the centre of these strategies to regulate the form of battle lay the institutionalising of a particular jurisdiction for combatants. Despite the participation of non-nobles in war, military courts were the courts of nobles, just as the 'right' of war was a noble right. This was nothing new. What was new, however, was that the patterns of behaviour were no longer anchored in culturally dominant requirements of *habitus*, but had rather to be sanctioned by instances of royal exercise of rule.<sup>24</sup>

Just like other princes of this time, the French kings also set out in the late fourteenth century to obtain specialists in warfare on a permanent basis. Historical presentations frequently give 1445 as the beginning of a standing army in 'France'. This is questionable however in two respects. First of all, because the notion of a standing army, as we shall show below, is more usefully reserved for forms of organisation whose structure is marked by training and externally imposed discipline, and secondly because the (lost) decree of 1445 referred not to the *introduction* of long-term service conditions, but to their *regulation*. What we do know is that it contained a list of the *chefs de guerre* who were in the king's service, and forbade the employment of women as well as other 'superfluous' personnel.

In the second half of the fifteenth century, none the less, permanent employment conditions came to be taken for granted, to the extent that the difference between permanent and temporary employment became usual. The *ordonnances du roi* also date from this time. When Charles VII ordered a series of war leaders to engage themselves in his service, these were described as the 'commanded' [*les ordonnances*]. Garrison troops were known as the *petite ordonnance*, mounted units as the *grande ordonnance*. Similar developments also took place in the princely territories. Those able to afford it could keep particularly experienced warriors in their command, and the princes of Brittany and Burgundy kept *ordonnance* companies like those of the king, in Burgundy even with a regular training system. The scope of the *grande ordonnance*, which is where the structural change in armed force had its particular focus, is hard to determine, as inflating the number of personnel offered better prospects for the *chefs*. In 1473 it is supposed to have contained 2,094 *lances fournies*. Each of these 'lances' consisted of a lancer, two bowmen, three assistants and three or four horses. So-called 'Italian lances', which were frequently used by

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<sup>24</sup> Contamine 1972, pp. 198–204.

the French kings from the late fourteenth century, consisted only of mounted lancers. In these Italian 'lances', a hundred knights would have from three to four thousand horses, two dozen *genétaires* (a kind of light cavalry), and a dozen 'master cutters' [*coustilleurs maistres*]. In the space of a few years, during the war with Burgundy, the number of permanently employed 'lances' rose to 4,000, before falling back to 2,000. This means that even 'permanent' employment remained completely dependent on the military conjuncture. Thousands of knights at a time would be engaged or dismissed.<sup>25</sup> Added to these were the many non-combatants required for the maintenance of the army. Contamine estimates the number of those permanently employed by the crown for its military purposes in 1450–75 at 14,000, and for the years 1475–1500 at 25,000. The effective strength reached by short-term contracts was in general about double this number.

Three further changes should also be noted. From the late fifteenth century, the military importance of artillery grew substantially, and with it developed the need to procure and improve such weapons, as well as to recruit appropriate specialists. It is already noticeable at this time that employment of Swiss mercenaries who fought in squares now became more important in the outcome of battles. This was the start of a renewed military role for the infantry.

With the formal end of the summoning of feudal arrays, it was no longer necessary for the king to fight in his own person in 'the king's wars'. This change is symptomatic of the objectification of royal rule. It should not however be overestimated. Even in the seventeenth century, contemporaries made fun of Louis XIV because he was all too ready to take cover when the fighting began.<sup>26</sup>

In the course of the fifteenth century, the French crown staked a claim to exclusive military authority. The royal power monopoly could not yet be implemented at this time. But towns now regularly conceded their independent military organisation to the king (or the local prince), while *seigneurs* more frequently recognised that the prosecution of feuds by armed force could lead to a punishment expedition by companies of the *grande ordonnance*. Though the crown for its part made use of the military potential of towns and nobles, it was in a stronger position than previously to prevent the indepen-

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<sup>25</sup> Contamine 1972, p. 287.

<sup>26</sup> Saint-Germain 1962, p. 193.

dent use of this potential. The generalisation of royal power proceeded partly in the form of an integration of private armed force into generalised ruling practice.

#### *Generalisation of royal fiscal power*

The crown also made frequent use of private or urban appropriation for the exercise of its fiscal power, legitimising this and restricting it at the same time. The various particular forms of royal fiscal power need not concern us here, and we shall confine ourselves to the structural characteristics that were constitutive for the development of the particular forms of the *ancien régime* in 'France'. There is firstly the fact that in the fifteenth century the nobility accepted the notion that the king had the right to regularly demand 'extraordinary' revenues. This meant, as in other countries, revenues additional to those from the royal domain. Extraordinary revenues in the thirteenth and fourteenth centuries were often demanded under the feudal description of *auxilium* or aid (in 'France', however, never from vassals alone). Later, it was generally the indirect taxes levied on commercial transactions that were described as aid. On top of this were the hearth taxes (initially known usually as *fouages*, latter as *tailles*), as well as the tax in many places on salt. Like the forced loans or 'presents' that were exacted from towns, Jews and Lombards, all such payments through to the fifteenth century were justified by renewed emergency conditions. The constant repetition of 'extraordinary' demands finally established taxation authority as a *de facto* royal prerogative.

The preconditions for this development are easy to grasp: on the one hand the recipients of royal *rentes* or pensions could readily see that income of this kind could not be financed by the domain economy alone. On the other hand, it was not only religious and secular lords, but towns as well, that were granted freedom from tax. If the kings summoned estate assemblies, those attending generally had more urgent complaints than their tax burdens. P.S. Lewis, familiar with the differences in relation to English development, believes that the introduction of regular taxation and a standing army was very likely the result of a temporary lack of attention of the *états généraux*.<sup>27</sup>

Indirect taxes affected nobles as well, and not all towns were able to acquire privileges. Yet the fact that the late medieval kings did not dare to tax the

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<sup>27</sup> Lewis 1985, p. 11.

nobility directly, decisively influenced not only the royal fiscal power but also the basic structures of the 'French' *ancien régime*, leading to the emergence of a system of private participation in centralised extraction. Already for the year 1347, Guy Bois estimates the tax burden on peasants in Normandy as around thirty days' labour.<sup>28</sup> It is widely agreed, however, that, from the late thirteenth century and during the Hundred Years War, taxes rose, before remaining largely constant until the early seventeenth century. The frequent fluctuations in the value of money, and the tremendous regional variation, make it generally hard to assess the specific extent of extraction.

The second structural feature of the royal fiscal power with a long-term effect in the late Middle Ages arose from the relevance this had for membership of a privileged estate. In a certain sense, the estate character of the nobility was established by the exercise of royal fiscal power. For nobility required freedom from the specific taxes levied on the non-noble. The same applied to recognition as 'clergy' (see below). Conversely, the generalisation and regularisation of royal fiscal power led to a reinforcement of the notion of hereditary nobility. Whilst in the fourteenth and fifteenth century (in particular cases still in the sixteenth) the hereditability of nobility had to be confirmed in practice by at least a landed estate of a certain minimum size, later on proof that one's ancestors had been *non-taillable* was taken as evidence for membership of the nobility. Since privilege of this kind, though it facilitated appropriation, could not prevent impoverishment, the specific structure of royal fiscality promoted the development of the difference between hierarchy of social rank and hierarchy of possession that was a typical structural feature of the *ancien régime* in 'France'.

#### *Generalisation of royal judicial power*

For most of the inhabitants of 'France', the private judicial power of the *sire* in whose domain they lived was decisive – and not just in the initial phase of the *ancien régime*. The number of *seigneuries banales* is impossible to establish, though for the seventeenth and eighteenth century estimates of 80,000 are usual. There were lawyers in the thirteenth and the fourteenth century who took the view that each *sire* had jurisdiction only over his vassals, and any further jurisdiction had to be expressly granted by the king. In practice, the crown

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<sup>28</sup> Bois 1984, p. 287.

accepted that the possessor of a *seigneurie banale* could decide 'civil' cases and practise so-called 'lower' and 'middle' jurisdiction in penal matters. Only in the realm of 'blood jurisdiction' [*haute justice*] did the view gradually come to prevail that this had to be explicitly granted and confirmed. The French crown could not refuse this concession to mighty nobles. Also, in times when royal government power was weak (as for example in the late sixteenth century), the number of lords who were confirmed in this power tended to rise.<sup>29</sup>

*Sires* did not exercise justice in their own person, but through 'officials' of their *seigneurie* or their substitutes. As a general rule, these legal functionaries did not officiate or live in the country, but in the nearest town. Along with the increasingly common venality of these offices, this spatial separation from the accused or the parties to a dispute affected judicial practice. It was not just the typically English influence of the 'neighbourhood', but also a form of judicial handling of social conflicts that presupposed personal acquaintance, that had difficulty in developing in the French context.

In the early thirteenth century, many districts had lacked any possibility of appeal against seignorial jurisdiction. The later strengthening of princely or royal territorial rule, moreover, led neither to the abolition of this private jurisdiction nor to the transformation of autonomous into delegated rule. Instead, royal rule was established by way of a limitation and control of private judicial authority: by the development of an instance of appeal. This proceeded steadily, but in phases. The first phase of royal offensive lasted more or less from the second half of the fourteenth to the end of the fifteenth century, coinciding therefore with the crisis of *seigneurie banale* that was especially pronounced in the north. At this time, the crown also asserted its judicial supremacy vis-à-vis the communes. As well as the control of private or urban jurisdiction, the crown claimed a right of *prévention*. This concept denoted the crown's ability to act whenever court proceedings seemed advisable but were neglected by private *sires*, as well as denying seignorial competence in all cases of importance to the crown, the so-called *cas royal*. Eventually, the expropriation of private jurisdiction was legitimised by reference to possible abuse. (In individual cases, this form of *prévention* was also practised.) When the form of *seigneurie banale* was newly reinforced in the sixteenth century, the possessors of private jurisdiction in the north won back competences that the

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<sup>29</sup> Chaunu 1977, p. 65.

crown had denied them. In the south, the crown had hardly exercised jurisdiction up to this time. The seventeenth century then saw a new limitation of private jurisdiction, this time more far-reaching and comprehensive. But even this development was partly revised again in the eighteenth century.

In 'France', the development of royal jurisdiction was the particular strategy by which the generalisation of royal power was promoted.<sup>30</sup> The crown however accepted not only the private possession of judicial power, but also the persistence of different legal customs. The generalisation of royal power did not therefore lead to a unification of law, but rather – from the late fifteenth century – to the formalising of local *coutumes*. In some cases, these customs varied from one *châtellenie* (the earlier *castellania*) to the next, in others – especially in Normandy, Brittany and Burgundy – princes succeeded in unifying the law in their realm in the same way as the royal rule had contributed to spreading the *coutume* of Paris. In the north, local law was transmitted almost exclusively by word of mouth until it was recorded by the crown, while in the south local legal custom had developed in the context of a partly surviving and partly renewed tradition of Roman legal notions, and in large parts had long been encoded. Though many differences in local legal practice disappeared in the course of the *ancien régime*, the fundamental difference between the legal systems of north and south survived until the Revolution. ('North' and 'south' should be understood here in very general terms.)

These particular developments were reinforced by the military-political conjunctures of the Hundred Years War. Until the start of the fifteenth century, the royal courts had confirmed regional judicial centres only under the condition that the *parlement de Paris* (see below) remained the highest appeal instance for all courts in the kingdom. When Charles VII had to take refuge in the south in the 1420s, and the Plantagenets ruled in Paris and the north, the jurisdiction of the *parlement de Paris* was in practice abolished. The dauphin then granted the assize court of Toulouse the same sovereign character that had previously been conceded only to the *parlement de Paris*. Charles VII and his successors proceeded likewise with other courts in outlying regions of the kingdom, those where independent princely power had been strongest: these courts were declared to be *parlements*, subject to the king but to no other court. In accordance with the unity of judicial and administrative competence

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<sup>30</sup> According to Lemarignier 1970, p. 347.

that was characteristic of the *ancien régime*, powers of administrative regulation [*arrêts*] and policing functions were similarly extended to the *parlements* of Toulouse, Grenoble, Rennes, Aix, etc. The Toulouse *parlement*, for example, exercised its own administrative supervision over towns in the region, decreed regulations for guilds, and pursued a regular policy of protective tariffs – thanks to its competence of establishing duties at the Spanish frontier.<sup>31</sup> At least theoretically, regulations of this kind could be quashed by the royal council, in the same way as legal decisions.

In the historiography and sociology of the rise of the ‘modern state’, it is usual to attribute an important role in the strengthening of royal rule to legal theorists schooled in Roman law – as if this was basically dependent on its own theoretical legitimisation. Joseph R. Strayer, however, countered in a remarkable contribution<sup>32</sup> that it was quite evidently not only the king but also the princes, as well as towns struggling for their liberties, who had taken into their service scholars who had learned to make use of the structures of argument of Roman law. He also refers to careers involving a clear change in allegiance. Strayer’s view is that in the case of the French kings, the spread of Roman law may ultimately have even proved an obstacle to the intensification of royal rule. What did spread throughout the kingdom – i.e. not just in the main stronghold of a law that was influenced by the Roman tradition – was an emphasis on individual cases. This experience became in a certain sense the instrument of a new professional group, whose members, like the knights at an earlier time, served the rulers in their exercise of rule. It was in the interest of legal scholars that the ‘judgement of God’ – generally in the form of a legal duel – should be abolished in seigneurial judicial practice where it still obtained. As royal rule in ‘France’ was established by the crown making itself the appeal instance for continuing seigneurial and princely judiciaries, all fiscal-policy and to a large extent even religious controversies became questions of law. At the same time, the question of legitimacy became linked to a specific procedure.

In practice, this also meant the delegitimisation of certain summary procedures practised by the king himself. Thus in 1343, twelve supporters of Jean de Montfort could still be hung as traitors simply at the behest of the

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<sup>31</sup> Lemarignier 1970, p. 365.

<sup>32</sup> Strayer 1970.



king. From the middle of the fourteenth century, however, 'treason against the king' became a crime that was judged in *parlement* (sometimes also in the Châtelet). The king could still order an execution, but if this was not to appear arbitrary, it now had to follow the conclusion of a trial.<sup>33</sup>

Strayer sees the fact that the crown governed in the form of legal decision as making it tempting to challenge fiscal and administrative regulations in court; if such cases were lost, reasons could almost always be found to launch an appeal. Conversely, practices of this kind caused the crown to perfect its procedures and establish more special courts. Though eventually the crown generally won cases of this kind, this was rarely as rapid a matter as the effective exercise of rule would have required. It was therefore increasingly prepared, for example, to accept immediate payment on account from towns, so as to avoid lengthy conflict over the full sum demanded. The practice of leasing out tax collection to private individuals was also encouraged by the constant court cases against the royal administration.<sup>34</sup> In short, according to Strayer, 'Roman law' and the rationalisation of court procedures favoured the crown only to a very slight degree.

The *parlement de Paris* developed into the central royal judicial institution. It arose as an extension of the royal council, and developed from the mid-thirteenth century into a separate institution, and one that remained stationary, in contrast to the court. The *parlement* was initially the king's court of fiefs, and thus responsible for dealing with all conflicts between the king and his vassals. In the course of time, it retained this 'first instance' character only for disputes between the crown and territorial princes or other great nobles, and developed otherwise into a court of appeal. At the same time, the *parlement* (its name should not suggest that it had any representative function) issued decrees, and it 'registered' the laws and decrees of the crown, which in this way were made public. Before this happened, objections or *remonstrations* were possible (in some cases repeatedly) against the 'unreasonableness' of a decree. If the king was not prepared to accept the 'reason' of *parlement* as his own, then he either ordered the registration to be effected (a fact that would then generally be noted in the registration), or held a so-called *lit de justice*, i.e. appearing in person so as to display his rule over the *parlement*. In this case,

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<sup>33</sup> Cuttler 1981, pp. 51–6.

<sup>34</sup> Strayer 1970, p. 45.

the decree which the *parlement* had remonstrated against was registered in the presence of the king (cf. below).

Nowhere was the argumentative skill of the royal lawyers more important than in the power struggles with the Curia. Here as elsewhere, the extent of royal power was decided in the last instance not by argument but by the possibility of its armed assertion; but as long as weapons were silent, it was the lawyers who fought. The personnel were exchangeable, so long as the clergy monopolised education. Only from the mid-fifteenth century did the king increasingly employ specialists who were not clerics.<sup>35</sup> Up till then it had been clergy in the main who developed the grounds for the limitation of church jurisdiction.

In the eleventh and twelfth centuries, the jurisdiction of bishops (and popes) had been extended, and canon law further developed (cf. above on the exemptions of monasteries). Legal authority was claimed over all 'clergy' [*ratione personae*] as well as over all material affairs affecting the church [*ratione materiae*]. Both aspects were extended widely. Though in principle only those could be considered 'clergy' who were at least seven years old, unmarried, could read and had received the tonsure, in practice there were many 'clergy' with tonsures but unable to read, or who had not yet reached seven, or were married, engaged in trade or hired themselves out as knights. The church courts and the crown were generally prepared in the fourteenth century to accept all these 'clergy' at face value. This meant that the individuals in question profited from the tax privileges of the clerical estate, and could only be accused before church courts. It was only if they practised daylight robbery, lent money at interest, had married a second time or a widow, that difficulties arose.<sup>36</sup> Philippe le Bel (1285–1314), for example, complained to the pope that Italian merchants had themselves tonsured and wore clerical dress in order to escape secular justice. In practice, when the crown took its first measures against the competence claims of the church courts in the thirteenth century, it proceeded initially against their jurisdiction in *ratione materiae*. Clerical jurisdiction over crusaders and scholars, on the other hand, was untouched. In the fourteenth century, royal lawyers struggled initially against the scope of papal jurisdiction, before turning their attention to that of the church courts

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<sup>35</sup> Shennan 1969, p. 22.

<sup>36</sup> Lewis 1968, pp. 170–3; Gaudemet 1962, p. 267.

in 'France'. Eventually, the church courts in the kingdom were integrated into the royal authority.

As Lemarignier has shown, in the course of these conflicts the crown made use of procedures that had been developed for the limitation and integration of seigneurial jurisdiction. This meant that in any *cas royal* the crown was declared an instance of appeal, while decisions by church courts were also quashed by the argument of misuse. Three areas of conflict are of particular importance here. The first concerned the decision of Boniface VIII to remove the tasks of the Inquisition from the responsibility of episcopal courts and turn them over to the Dominicans. With the support of the French bishops, Phillippe le Bel's legal minds developed the basic argument for Gallicanism (see below): heresy was deemed to threaten the peace of the kingdom, and thus fall under the responsibility of the crown. In actual fact, the *parlement* became an appeal instance for the Inquisition tribunals. This meant an appropriation by the crown of the power to define the boundary between correct belief and heresy. The second conflict to be discussed here concerned legal authority in the case of treason against the king. S.H. Cuttler, who has made a special study of this problem, writes:

In good part, the authority of the French crown in the late Middle Ages was a function of its ability to punish crimes. Since treason more than any other crime was directed against the general order, this crime could only be judged by the king as embodiment of public order, or by the officers and courts that he appointed for this purpose. This at least was the majority view of lawyers and *coutumiers* [specialists in unformalised local law: H.G.]. In practice, though in most cases of treason the crown achieved this competence, it had sometimes to be asserted against urban, seigneurial, and above all religious jurisdictions.<sup>37</sup>

Punishment of clergy in 'France' customarily remained the responsibility of church courts. In cases of *lèse-majesté*, however, the crown demanded – and obtained – jurisdiction. During the Hundred Years War, for example, bishops were on several occasions condemned by the *parlement* for their links with the enemy, often – though not always – with the participation of clerical judges. It

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<sup>37</sup> Cuttler 1981, p. 59 [re-translated from the German].

also seems that some of those condemned were executed without previously having been expelled from the clerical estate, as was the general custom.<sup>38</sup>

The third example of these restrictions of competence arose from the extension of secular jurisdiction in marital affairs. Though marriage as such remained the uncontested responsibility of church courts, the crown claimed jurisdiction over marital disputes that involved material connections between spouses, as well as conflicts resulting from the separation of goods, and sometimes also the separation of bodies.

From the mid-fifteenth century, the crown prevailed with the argument of misuse of judicial power. In other words, decisions of church courts could be quashed by the crown's instances of appeal. The practice of appeal against misuse developed very rapidly also for administrative decrees of the church. It then affected for example specific prescriptions of religious practice or even excommunication. What made it possible to implement legal practice of this kind was a particular balance of forces between the pope and the French king, which we shall discuss further below. But it outlasted this particular political conjuncture. Until the Revolution, decisions of church courts were regularly overturned by royal courts on the basis of misuse. Under Napoleon the practice was not only restarted, but actually intensified. It lasted until the final separation of church and state in 1905.<sup>39</sup>

#### *Power of office and advancement*

In the fourteenth and fifteenth centuries, a fief, a farm, a commission that was limited in content and time or a long-term task in the service of the king (or another lord) could all be described as an *office*. Many offices of the king were awarded to the retainers of royal vassals. In some cases they were given to vassals so that these could sell them or occupy them as they saw fit. Offices were thus understood as a source of income. They offered the king the possibility of rewarding his vassals at no great cost. At the same time, there were also dealings in offices in which money was involved. A private trade in office power existed. For 'offices' with judicial power, this trade was repeatedly forbidden. This not only shows that it took place, it also shows that judicial

<sup>38</sup> Cuttler 1981, pp. 79–80.

<sup>39</sup> Lemaignier 1970, p. 357.

power was ascribed a quite special importance. To sell it for money was rather like the sale of religious power (likewise quite usual), simony or sacrilege. The most that money alone could buy, however, was access to minor power of office. For all other transactions, 'elections' not excepted, recommendation was needed as well as cash. Françoise Autrand believes therefore that what was rather involved, strictly speaking, was a form of co-optation linked with financial settlement, rather than a regular trade.<sup>40</sup>

From the end of the fifteenth century, access to a whole series of offices needed not just money along with kinship or friendship connections with influential incumbents, but also a certain qualification. This made it harder to make unimpeded use of office power for retainers. Yet mighty nobles continued to profit materially from the fact that the king would necessarily be inclined to follow their recommendations. They now conveyed office power also to individuals outside their own 'household', and accepted reward for their pains.

The most important path of access to *offices du roi*, however, in the fifteenth and still in the sixteenth century, was *lignage*. In the historical rise of the new social group that the *officiers* were rapidly perceived as forming, the characteristic medieval practice of defining social structures as forms of kinship, and behaving according to such definitions, played once again a decisive role. We find again here varying notions of kinship in the different strata of the population. Whilst in the lower strata an individual choice of spouse had become more common from the fourteenth century, along with a later age of first marriage for women, and the tendency towards the nuclear family was already so advanced that the royal tax authorities oriented themselves to it, among the nobility and the higher strata of non-nobles the kinship forms of *lignage* – and thus family agreements over marriage, and an early age of first marriage for women – remained largely in place.<sup>41</sup> With hindsight, these biologically defined protective associations stand in a certain sense at a historical turning-point. They are somewhat similar to the personal structures of obligation between lords and their retinue, and to this extent fit into a culturally dominant tradition. At the same time, they were historical prefigurations of the cli-

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<sup>40</sup> Autrand 1984, p. 78.

<sup>41</sup> Chaunu 1977, p. 50.

entele groups that were later to be so important, more or less stable networks of connection for mutual promotion in material, status and political terms.

In this connection, the transmission of office power within the extended family is of immense significance. It proceeded above all through the practice of *resignatio in favorem*, retirement in favour of a nominated successor. Françoise Autrand has studied the development of this form in the fifteenth century.<sup>42</sup> Many such retirements were in favour of relatives or persons recommended by relatives or friends. (Neither case excluded payment for the office received.) 'Dans le service de l'Etat au XV<sup>ème</sup> siècle, les choses se passent en famille ou au moins entre gens de connaissance,' as she summarised her results.<sup>43</sup>

Family support was also useful for strategies of advance in other fields than royal office, if not indeed essential. Jean-Louis Bourgeon has impressively demonstrated this for a particularly celebrated example, that of Colbert.<sup>44</sup> Mikhal Harsgor pertinently described the 'accumulation' of fiefs, commissions, offices, profitable marriage ties, houses and land as a familial strategy [*poursuite familiale*],<sup>45</sup> and held that in the late fifteenth century the kingdom was *de facto* in the possession of a few great families, who shared out among them – along with their friends and hangers-on – command of the army, rule over the royal fiscality, a considerable share of the *sénéchausées* and above all the profitable episcopal and archepiscopal sees. Their constant aim was in one way or another to attain possession of seigneurial rule.

Characteristic of this power élite, which consisted of a relatively stable core with fluctuating adherents, seems to have been its pronounced legalism. Court cases were preferred means of exercising appropriation and power. Not just the relatives and friends of this narrow ruling circle, but also those at its centre, were composed of a mixture of nobles and non-nobles (the majority at least ennobled in some form). It was not their origin, but their function as 'oligarchs', that was decisive for their social status.<sup>46</sup> It may be that Harsgor overestimates the systematic and economically purposive character of this private exploitation of generalised power in the late fifteenth century. What is incontestable, however, is that at this time the foundations developed for

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<sup>42</sup> Autrand 1981.

<sup>43</sup> Bourgeon 1984, p. 82.

<sup>44</sup> Bourgeon 1973.

<sup>45</sup> Harsgor 1985, p. 135.

<sup>46</sup> Harsgor 1985, p. 145.

the form of rule that was later characteristic of the *ancien régime*: expansion of centralised power in the form – and under the condition – of its far-reaching privatisation.

The formation of a notion of *office* as a permanent institution of rule, independent of its present incumbent, went together with the assertion of a *de facto* and then formal *inamovibilité*. Only in cases of gross abuse of office could an incumbent be dismissed, but not for example with the death of the king or a change in government policy. Along with *resignatio in favorem* and the so-called *survivances*, candidatures to office, this irremovable character prepared the transformation into private property that was legalised in the early seventeenth century (see below). At that time the acquisition of office power became one of the most important forms of social advance. In this respect there is no difference from developments in England and other European kingdoms of the time. But as distinct from the English case, acquisition of office in France was not only a means of advance, but at the same time a decisive form of appropriation for wealthy non-nobles. Emmanuel Le Roy Ladurie also speaks of a *mode d'appropriation* in this connection.<sup>47</sup>

In the late fifteenth century, and especially the early sixteenth century, this development was promoted precisely by those social circles who were later to complain about it so bitterly: the *noblesse d'épée*, who still hoped to win power, money, land and honour through warfare. The propaganda campaign that presented the first expedition to conquer Italy as a war waged in the name of God for the reform of the church, was according to Harsgor a cynical exercise on the part of those who planned it, as in their correspondence it was purely the prospects of victory and profit that were debated.<sup>48</sup> Eventually, in the first half of the sixteenth century, the royal and dynastic policy of conquest that was supported by considerable parts of this nobility favoured far less the appropriation strategies of impoverished knights than the prospects of advance for non-nobles. The financing of its policy of conquest led the crown in 1552 to undertake trade in offices on its own account. It established a *bureau des parties casuelles*, to sell office power under the fiction of requesting from the bidders a loan that would actually be forfeited.

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<sup>47</sup> Le Roy Ladurie 1987, p. 30.

<sup>48</sup> Harsgor 1985, p. 145.

Since as a result of immovability, *resignatio in favorem* and candidature, the crown as a rule had only a few vacant positions to offer, it shifted on the one hand to demanding fees for *resignatio* and candidature, and on the other hand to the establishment of ever more new offices. It was led all the more in this direction because the demand for offices was so high that prices could be greatly inflated. The royal trade in offices was one of the most rewarding and least problematic ways of paying for cannons and mercenaries. According to Mousnier, the number of *officiers royaux* rose elevenfold in a century and half, from 4,141 in 1515 to 46,047 in 1665.<sup>49</sup> Nobles participated at all levels of the 'hierarchy of office'. But systematic familial strategies as well as training programmes favoured the rise of non-nobles. For the highest officials, the view developed in the sixteenth century that their proximity to the king in a certain sense obliterated the origin of the incumbent. Anyone who became chancellor, a member of the royal council, or president of a *parlement*, thus acquired *de facto* nobility. Many other officials in high positions either purchased letters patent or received these. As against the situation in the fourteenth century, letters patent were no longer an exception in the noble ranks. Yet while those ennobled in this way acquired many noble privileges, they remained members of the Third Estate. It was only after several generations that a 'silent' transition to real nobility took place. The attraction of power of office was not thereby reduced. The highest strata of the social group sometimes described by contemporaries as the 'fourth estate'<sup>50</sup> were in the process of constituting themselves as a second stratum of nobility. The 'depiction' of the social order that Charles Loyseau published in 1610 is a document of these collective strategies of ascent. All that need concern us here is Loyseau's treatment of the question of precedence in the complex cases where rank and estate did not correspond: 'the lowest *gentilhomme* has precedence over the richest and most honourable man from the Third Estate'. Hence the simple but fundamental behavioural requirement that social status should be sanctioned by power as a personal quality. The situation became difficult when a noble met a non-noble or an ennobled official of the king. It was clear that 'princes cannot allow precedence to any official, no matter what his rank'. Knights and other members of the high nobility should only concede precedence to those

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<sup>49</sup> Mousnier 1970, pp. 17–20.

<sup>50</sup> Böse 1984, p. 101, n. 72.



officials who on the basis of their office were themselves noble [*chevaliers*], 'for within the same estate, service to the king grants higher rank'. Simple nobles [*gentilhommes, écuyers*] gave precedence to officials of the king who were magistrates, i.e. members of the most important courts. And this was 'on account of their jurisdiction and the scope of their power', even if the magistrate was a commoner.<sup>51</sup> George Huppert<sup>52</sup> holds, differing from Mousnier, that Loyseau's *Ordres* did not depict established rules of behaviour, but rather asserted the demands of a *noblesse de robe* that criticised the parasitic character of the *noblesse d'épée*. Indeed, around 1600, outside the *noblesse d'épée* it was still family origin that determined rank, and not yet office. The ennobled urban officials, for example, did not consider respectable old families in the towns as genuinely high-ranking, so long as they still pursued trade. Those in the towns who considered themselves *gentil* were not only rich but lived at leisure, drawing their income from *seigneuries banales*, *rentes*, property and offices, not the least of these being church offices. By their practices of appropriation and their education, these families distinguished themselves – in their own view as well – from merely wealthy bourgeois. In the first half of the sixteenth century, a large part of these French 'gentry', as Huppert terms them, managed the silent ascent into the nobility. As against the situation in the previous centuries, this advancing stratum frequently maintained their cultural identity, especially their enthusiasm for classical education. They founded schools rather than chapels, endowed professorial chairs rather than masses. Differently from the English case, in 'France' the emergence of a 'gentry', i.e. informal transition into a second stratum of nobility, ended in the late sixteenth century, partly because families from this social group experienced a considerable restriction on their incomes, but above all because of successful competition from educated sons of the less eminent urban bourgeoisie, along with successful defensive struggles by members of the 'old' nobility.

Outside of the *noblesse d'épée*, the importance of origin for social status was somewhat reduced. What replaced it in the seventeenth century was rather the determination of status by the hierarchy of office, and hence by the rule of the crown.

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<sup>51</sup> *Ordres*, I, 26–39, cited after Mousnier 1969, pp. 64–5.

<sup>52</sup> Huppert 1977, pp. 11–18.

*Bénéfices and Gallicanism*

'In the fourteenth century the question of sinecures [*bénéfices*] stood at the centre of relations between church and state', wrote Mgr Guillaume Mollat at the start of his detailed treatise on the conflicts that culminated in the 'pragmatic sanction' of Bourges (1438), the 'charter of Gallicanism'.<sup>53</sup> These conflicts and the theological-legal foundations of Gallicanism cannot detain us in any detail here, still less the general state of the church. In the writings of those who championed a reform, both the higher and lower clergy were depicted as greedy, theologically uneducated, and sinners uninterested in the spiritual welfare of the parishioners entrusted to them. The numerous personnel of the church naturally contained exceptions, secular clerics as well as those in holy orders. But even *within* the French church, in Mollat's view, the question of sinecures was central in the fourteenth and fifteenth centuries.

The pope, the king, princes and great nobles all had an interest in the financial situation of the French church, along with those who directly benefited from it or expected to do so, since by granting or agreeing to *bénéfices*, they could spare expenses for their own personnel, obtain or maintain supporters, acquire a claim to annates (see below), and provide for their own relatives. In the fourteenth and fifteenth century, it was the nobility in particular who enriched themselves from the church. At this time, however, the church itself offered prospects of social advance. Innocent VI (1352–62) was the son of a peasant from Limoges, Jean Charlier (or Gerson) who hailed from a village in Champagne became chancellor of the university of Paris, Pierre d'Ailly, son of a Compiègne townsman, became cardinal of Cambrai.<sup>54</sup> In the years 1483 to 1515, on the other hand, more than 70 per cent of the archbishoprics and bishoprics of 'France' (excluding Brittany and Nantes) were in the possession of members of the royal council, their sons, nephews, first and second cousins or in-laws.<sup>55</sup> This did not mean that these *bénéficiaires* fulfilled clerical duties, but rather that they enjoyed the incomes from their sinecures. All of them were 'clerics' in so far as they could read and write. But their higher education was far more likely to have been in the faculty of law rather than that of theology. (One of the demands of the reformers was that graduates of the University of

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<sup>53</sup> Mollat 1962, p. 407.

<sup>54</sup> Lewis 1968, p. 293.

<sup>55</sup> Harsgor 1985, p. 137.

Paris, i.e. theologians, should be more highly regarded in filling church positions.) All clerics were deemed members of the First Estate. But many secular clergy saw themselves far more as nobles in the sense of originating from a *lignage of gentilhommes*.

In the fourteenth and fifteenth centuries, even the less profitable clerical sinecures were among the crumbs that it was worth fighting for. This was already the case in the time of castellanery, when the *sires* appropriated the right to appoint lower clerical positions, and again in the thirteenth century, when princes (and kings) were concerned to increase the number of sinecures for which they possessed *collature* (the right to confer clerical office), or else influence electoral processes by their competences of regulation and confirmation. The fourteenth and fifteenth centuries saw a certain simultaneous explosion of all the conflict structures of this form of rule. On the one hand, from the middle of the century it became harder to materially exploit office power, due to the death from plague of many who owed obligations, and in the north also due to the crisis of seigneurie. It was because of this, at least so P.S. Lewis maintained,<sup>56</sup> that the more powerful churchmen made increased efforts to obtain two or more sinecures. For maintaining a great household, in the eyes of the world as well as in their own, counted among the demands and perks of their dignity. When  *bénéfices* were acquired, not only did annates (a share of the profit from the first year) have to be paid to the *collateur*, substitutes in office compensated and endowments financed, but 'gifts' to the crown (or territorial prince) were also necessary, if not to the pope as well. The conflicts that were kindled by this double taxation and the level it reached were elements in the general struggle for power of disposal over sinecures.

One of the most vigorous conflicts over the right of the French kings to tax the clergy of the church of 'France', broke out between Philippe IV and Pope Boniface VIII. This was the starting-point for the long residence of the popes in Avignon, from 1309 to 1377. In 1303 Philippe had tried to settle the conflict in his favour by inviting the pope to a council in Lyon, with the idea of accusing him there. The invitation could only be presented by armed soldiers violently occupying the castle of Agnani where the pope was staying. The pope did not accept the invitation, and managed to defend himself against kidnap-

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<sup>56</sup> Lewis 1968, p. 301.

ping by force of arms, but the excitement led to his death. The following year a Frenchman was elected as Pope Clement V, and in 1309 he shifted the papal residence to Avignon.

Many historians see the presence of the popes in 'France' as evidence of a subordination of papal rule to that of the French kings. This appearance is deceptive. Their presence in 'France' gave the popes extensive opportunities to expand their discretionary powers. Initially recognised only for the case in which a clerical dignitary died at the seat of the Curia, this 'reservation' was subsequently extended to all *bénéfices* where the incumbent had had any contact with the pope. In this way the number of 'reserved' sinecures was expanded, at the cost of the former rights of the electoral colleges, the *collature* of the territorial princes, and in part also that of the king.

At the same time, the *parlement de Paris* developed its strategies for limiting clerical jurisdiction, as we have discussed above. It followed from this that there was not only conflict as to who should occupy a position, but also over who had the right to decide on the legal disputes over investiture rights that constantly arose. In the course of the fourteenth century, the *parlement* not only asserted itself as the appeal instance for disputes over the benefices of lower clergy, but also achieved the judicial integration of the abbot-bishops. Eventually, in the period of the great schism, when from 1378 to 1415 two popes struggled for rule (even three for a while in 1409), the French clergy accustomed itself to appealing not to 'the' pope, but to the *parlement de Paris*. At the end of the fourteenth century, the *parlement* also decided on disputes on the investiture of bishoprics and archbishoprics. It was the legal practice of the final decades of the fourteenth century and the early decades of the fifteenth that gave rise to what was later called the Gallicanism of the *parlement*, a doctrine that defended the 'indigenous' freedoms of the church against claims of papal supremacy. The strategies of centralisation that the popes pursued in their period of Avignon residence were successfully counteracted in this way. This legal Gallicanism was extended during the schism by demands within the church for papal rule to be subordinated to councils. In point of fact, the division of the church was ended only by the council of Constance (1414–18). The debate about necessary reforms that was begun there was continued at the council of Basle from 1431 to 1449.

The decisions of the assembly of French clergy that Charles VII summoned at Bourges in 1438 included many of the reform demands of the council of Basle.

The guidelines eventually decreed by the king for the reform of the church in 'France', the so-called 'pragmatic sanction' of Bourges (1438), insisted on the 'old' rights of the French church vis-à-vis the expansion of papal rule, restored in particular the competence of electoral bodies, and restricted both the pope's fiscal power and the papal 'reservation'. For benefices of the lower clergy, reservation was completely excluded. Differently from the council of Basle, however, the Bourges assembly did grant the pope certain fiscal rights. Gallicanism never developed into a fundamental attack on papal rule, but always remained a demand to restrict it.

Gallicanism is customarily depicted as an element in the formative process of generalised royal rule or national statehood, for example by J.-F. Lemarignier.<sup>57</sup> The argument for this is that those members of the electoral bodies who had hoped to be able to choose their superiors on the basis of monastic discipline and spiritual care, rapidly discovered that little had changed. Instead of the pope appointing his candidates, it was now the king, or clergy dependent on the king, who appointed theirs. But P.S. Lewis warns against the assumption that clerical power was thereby instrumentalised by royal rule. For the shape of royal policy was determined to a very high degree by the result of dispute within the clergy. There were changes of direction on the part of the king, for example the temporary rejection of Gallicanism by Louis XI. But these were unable to withstand the prevailing tendencies within the personnel of clerical rule. Moreover, the specific policy of the clergy in the fifteenth century was decided not on the basis of principle, but of advantage.<sup>58</sup> Those hoping for promotion by the king were Gallicans, and those hoping for promotion by the pope were papists. The individuals involved frequently changed sides, often in a short space of time. Harry A. Miskimin<sup>59</sup> finally made clear how inappropriate it is to see the Gallicanism of the fifteenth century as an unqualified 'religious policy'. Given the general – and still sharpening – scarcity of precious metal, a policy directed against rulership claims that annually transferred abroad up to half the output of the royal mint became a question of survival. In both the *parlement* and the *cahiers de doléances* that were compiled before the convening of the *états généraux* in 1484, church pol-

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<sup>57</sup> Lemarignier 1970, p. 277.

<sup>58</sup> Lewis 1968, pp. 319–24.

<sup>59</sup> Miskimin 1984.

icy, as Miskimin show, was debated in terms of the shortage of money.<sup>60</sup> This perspective was all the more decisive in that it had emerged in the course of the fifteenth century that while manipulation of the currency regularly led to disturbances, as it prejudiced either creditors or debtors, the goal it aimed at could not be achieved, as prices changed to correspond with the real value of money rather than its newly established nominal value.<sup>61</sup>

A final point to be stressed here is that even the victories that the French crown fought for and achieved in the name of Gallicanism do not immediately confirm the interpretation predominant in the literature of the special power of the French kings vis-à-vis the church. For in other cases princes achieved similar results by less conflictual policies. It was the French clergy who barred this route for the French kings.<sup>62</sup>

In the same way as the persecution of heretics, the debates at the reforming councils attest that not just among 'simple' churchgoers but also among the possessors of benefices there were Christians concerned for an order on earth that was pleasing to God. Even in the case of kings, their self-proclaimed task of protecting the church – and re-ordering it, in the fourteenth and fifteenth centuries – cannot be interpreted simply in terms of power politics. For the development of rulership structures in 'France' of this time, however, competition over disposal of benefices was a key structural characteristic.

#### *The 'French' form of generalisation of monarchical power*

François I died in 1547. In the week that passed before his funeral, a period extended by special circumstances, his corpse lay in its coffin while a dummy of his body – with a mask for the face, taken from the living model – lay on display at court. During this week 'the king' continued to 'receive' his advisers and the nobility. They were summoned to table, where meals were served, and even glasses lifted at the precise times when the king liked to drink. The king was even present *in effigie* at his own burial.

This practice, which lasted in both England and France until the seventeenth century, expressed the complex idea according to which the royal rule of a mortal person was both personal to him and at the same time immortal.

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<sup>60</sup> Miskimin 1984, Chapter 6.

<sup>61</sup> Miskimin 1984, p. 68.

<sup>62</sup> According to Mollat 1962, p. 464.

Contemporaries of François I described this permanent character of royal rule as the royal *dignitas*, for which today we use the concept of institution.

In the late Middle Ages the dead king of 'France' 'lived' until the moment of his burial. Only at this moment – and not already at the time of his corporeal death – was the cry 'Le roi est mort!' given, followed immediately by 'Vive le roi!' This 'Vive le roi!' signified also a decline in the importance of coronation. For a long time, the rites of succession continued to express the earlier foundation of royal rule in election. Even when the throne regularly passed from father to son, the form of election persisted in the confirmation of each successor by the nobility (cf. above). Coronation, which in France was described as a rite [*sacre*], then meant the definitive confirmation of the legitimate successor. Although the number of sacraments had been limited to seven in the twelfth century, in 'France' there continued to be eight. For the new king was 'sanctified' by the sacrament of anointing conducted by the church. The oil that endowed him with this character was a mixture. The largest component was the same oil used for the consecration of bishops. To this however was added a few drops of the oil that according to legend had been used for the baptism of Clovis in the early sixth century. Until 1824, the rite of consecrating royal rule remained linked with the evangelising of the Franks.

The early Capetians had effected the continuation of their dynasty (and thereby the royal rule) by making an association with their successors in their own lifetime. When Louis XI died on Crusade no such arrangement had been made, but the rule of the new king was already accepted before he was confirmed by the nobility and anointed. This showed for the first time the relative loss of importance of coronation for the legitimising of royal rule, and the rise of the principle of succession. But the two conceptions still went together in the fifteenth century. Thus for example it was not just the coronation of Charles VII that confirmed the legitimacy of his rule, but indirectly also the fact that he was a son of Charles VI. Rumours about his extramarital origin were allayed by his coronation.

In the course of time, the constitutive importance of coronation for the legitimisation of royal rule disappeared almost entirely. Its significance now lay rather in determining the symbolic content of royal rule. From the beginning to the end of the *ancien régime*, this rule, no matter how much it was the property of a person, was never completely personified. The cult of this rule bore rather on the king 'as anointed', 'as knight', 'as protector of the church', rather than as an individual elevated by heredity.

In the opening phase of the *ancien régime*, 'representation' focused on *dignitas*, the general character of rule. The geography of the cult also corresponded to this conception. In the fifteenth and sixteenth centuries, the most important ceremonies of royal rule, the *lits de justice* and *entrées*, were still held in outlying places. Later on, however, the *religion royale* would be practised above all within the king's palace.

A *lit de justice* meant that the king visited in person the *parlement de Paris* (or rarely, one of the provincial *parlements*). This could be, for example, if a noble was accused before the *parlement*, and this was then expanded into a court of peers by addition of the great nobles and presided over by the king himself; it could also be if the king compelled the registration of laws and decrees in the face of remonstrance. In the sixteenth century, a further kind of *lit de justice* was introduced, the so-called *lit de justice inaugural*. When the Rouen *parlement* was summoned in 1560, at the start of the reign of Charles IX, the partial secularisation of the royal dignity was manifest. The new reign was now formally opened not by coronation, but by the proclamation of a *parlement* of the crown. When the start of Louis XIII's reign was proclaimed at a *lit de justice* in 1610, the king was then eight years old. He sat on a cushion in the *parlement*, while it was proclaimed in his name that his mother, Marie de Médicis, would act as regent. At the funeral of his late father, Henri IV, the dead king was carried *in effigie* for the last time. But because the reign of the new king had already been officially proclaimed, this reproduction now served only as a memorial of the late king. When Louis XIII was himself buried in 1643, his body was carried to the grave without a reproduction of his person being 'present'. The reign of the minoritarian king Louis XIV had again been established already by the *parlement*, and the regency proclaimed in the name of the king.

The *entrée* was the arrival of the king (or another great lord) into a town. When these occasions lost the provisioning character that they had had at the time when the court was migrant, they developed into ceremonies in which the authorities of the *bonnes villes* gave expression to their relationship to the crown. Bernard Guenée and Françoise Lehoux describe the *entrées* of the late Middle Ages as a dialogue between the king and his subjects.<sup>63</sup> The *entrées* give good evidence of a change in the conception of rule. Until the end of the fifteenth century the backdrop was dominated by biblical themes, later by

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<sup>63</sup> Lehoux 1968, p. 8.



quotations from antique mythology. In the power theatre of the *entrées*, the town authorities staged both their subjection to the king, their expectations of his rule and their interpretation of urban order. In this fashion, the comparatively simple medieval festivals, in which all strata of the town population participated, developed by the sixteenth century into grandiose events at which the lower orders could only gape. It was not uncommon for special taxes to be raised to finance these spectacles.<sup>64</sup>

By a process of steady change (sometimes clearer, sometimes less so), the ceremonies of the *religion royale* were adapted to new conditions and conceptions of rule. If we make use of the helpful distinction between custom and tradition that Eric Hobsbawm has proposed,<sup>65</sup> in the period of royal rule under discussion here there were not yet those formalised and ritualised patterns of behaviour summed up in the concept of tradition, but rather mere customs of rule. These marked the obverse of the exercise of rule. The material conditions of royal rule, on the other hand, were largely negotiated in wrangles over the price of offices, in tough negotiations with urban emissaries in quest of freedom from taxation and cancellation of arrears, or in the petitions of nobles for promised pensions to be paid. To bring all relevant transactions onto a common denominator, this amounted to the transformation of loyalty into a tradeable good. Even members of the courtly orders were not excluded from this. Their particular obligations of loyalty were well rewarded.

The generalisation of personal rule, which was the constitutional characteristic of societies of the *ancien-régime* structural type, arose in 'France' in the form of a variety of very different connections – military, fiscal and legal – between the king on the one hand, and princely, noble or urban territorial rule on the other. The 'unity' of the kingdom existed in the material favouring of local rule, in the construction of a royal administration along with the communication routes this required,<sup>66</sup> as well as in the cult of royal rule.

The generality of royal rule was sometimes expressed in the convening of the *états généraux*. But 'France' was not a *Ständestaat*, in the German term that Guenée uses here.<sup>67</sup> The royal rule was not limited by general 'representa-

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<sup>64</sup> Lehoux 1968, p. 211.

<sup>65</sup> Hobsbawm 1983, Introduction.

<sup>66</sup> Guenée 1971, p. 346.

<sup>67</sup> Guenée 1971, p. 344.

tive' bodies, but by the structure of its own executive apparatus. For a long while, historians took this state of affairs as evidence of the great strength of the French kings, and the rare convening of the *états généraux* as a failure of efforts (deemed structurally necessary) by the nobility and urban bourgeoisie. P.S. Lewis was the first to refute this point of view fundamentally, by showing how, quite the contrary, the *états généraux* in late medieval 'France' were convened almost always at the initiative of the crown. Under Charles VII, the crown made many unsuccessful efforts to summon the *états généraux*, and on the occasion of the (only) assembly of the *états généraux* in the reign of Louis XI, the deputies asked the king not to summon them again.<sup>68</sup> The provinces of Languedoc let the king know that they were not accustomed to meet together with those of Languedoil, as they each had their own assemblies. Even some of the regional estate assemblies lost their practical importance by the disinterest of those they were supposed to send. In exceptional cases, conditions for the royal exercise of rule were formulated in *doléances*, compiled into *cahiers des doléances* before the estates assembled. These complaints were dealt with as a general rule, however, in a number of individual negotiations conducted with nobles, towns and corporations. Given the diverse nature of the exercise of rule, some individuals could hope – and corporations always did – that they would succeed in gaining favourable treatment or alleviation of their burdens. The generalisation of royal rule consisted in the generalisation of competition for particular advantages. This structure arose from the (above described) manner in which the royal rule had been expanded. Its reproduction was favoured by the size of the country, the differences in language, and the variation in cultural and material life.

If the situation in 'France' did not develop to a generalisation of estate demands on the crown for rule, this did not give the kings particularly great strength. They certainly dominated the law more than the kings of England did. But their arbitrary practice presupposed the satisfaction of the material interests oriented towards the crown. This basic structure of royal rule in the *ancien régime* of 'France' stood persistently in the way of the realisation of that 'reformation' of the apparatus of royal rule that was time and again demanded and attempted.

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<sup>68</sup> Lewis 1985, p. 11.

a.3. *The wars of religion*

As a result of the concordat that was made in 1516 following the conquest of Milan by François I, most of the lucrative church benefices in 'France' came into the direct disposal of the crown (or its indirect disposal in the case of elective procedures). In practice, the king saw himself compelled to meet the wishes of influential nobles on questions of investiture.<sup>69</sup> In the first half of the sixteenth century, the church became a component of the patronage system. Piety and scholarship were now the exception, not just among the secular clergy, but also among those who belonged to the religious orders. Criticism was natural under these conditions, expressed by rich and poor alike, by nobles and bourgeois, and by the clergy themselves. Demands for a reformation of the church had no specific group of champions in 'France'. What was characteristic of the French pre-Reformation was rather an attitude of individual piety, strongly influenced by traditions of mysticism.

The reforming teaching of Martin Luther found only few supporters in 'France'. The Sorbonne found it necessary, none the less, to declare it a heresy, and the *chambre ardente*, a special chamber of the *parlement*, condemned Christians guilty of Protestantism to be burned at the stake. Some of these verdicts were quashed by the crown, which was concerned to secure the support of German Protestant princes for its war with Spain. Only when Calvinist preachers from Geneva arrived in 'France', many of these being French subjects who secretly returned after having fled the country, in order to preach the reformed religion, did a real movement develop. In many districts, there were so many Calvinists by the middle of the sixteenth century that they now practised their religion openly. In several cities Calvinist assemblies were held in public squares, many landed nobles paid for preachers or deacons, and placed churches at their disposal. Estimates of their number vary. I follow here the very cautious assumptions of Mark Greengrass, according to whom by 1560 there were at least two million Protestants and 1,400 communities with their own priest or deacon.<sup>70</sup>

Disputes over the right Christian belief in the sixteenth century were above all disputes over the possession of rule, and the manner in which this should

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<sup>69</sup> Stocker 1971, p. 26.

<sup>70</sup> Greengrass 1984, p. 3.

be exercised. They took place in 'France' under historical conditions that led to a situation in which, still more than in other realms, the question of right belief was increasingly degraded into a mere means of struggle for power and possessions.

For nearly four decades 'France' was beset by internal warfare. From 1562 to 1597 Catholics battled against the crown, or – from 1589 – against a prince whose claim to the throne they would not accept. There were men on both sides who struggled for their genuine religious convictions. The specific dynamic of the wars of 'religion', however, did not develop from questions of faith, but as an effect of crises of government.

In 1559, the war between the French and Spanish monarchies came to an end. From the last years of the fifteenth century the French kings had waged almost continuous war, which for most of their subjects had brought only burdens: tax increases, billeting of soldiers, and plunder. Many found service in the royal army, but few shared in its booty. They received offices, land, pensions or gifts, and sometimes a (higher) noble rank into the bargain. But very few nobles could close by participation in war the gap that had emerged between the costs of their lifestyle and their income; more usually, increased costs and the devaluation of money opened the gap still further. Moreover, the protracted wars of the French kings against Emperor Charles V ended with a peace that neither side could see as the end to a glorious struggle. Many nobles had their hopes dashed, and the bankruptcy of the royal rule also meant a loss of income for the possessors of offices and pensions. As for the less privileged strata of the population, or those not privileged at all, ever higher taxes were demanded from them, and in addition to this they suffered the private exploitation practices of those who felt the basis of their material reproduction threatened or sought to expand it.

It was in this situation of general fiscal, political and religious crisis that Henri II died. His successor François II (1559–60) was not of age, and was succeeded in turn by his younger brother Charles IX. When the new king died in 1574, his successor Henri III was himself only thirteen years old. During the minority of her sons, the government of the kingdom lay with their mother, Catherine de Médicis, on whom the regency was conferred (along with Navarre).

Under the *ancien régime*, regency always brought a more or less serious crisis of government. In such a period nobles were able to oppose ministers,

maintaining that they were upholding the interest of the king; the *parlement* could take a stand against the government without this necessarily being treated as rebellion against the king, and all those who hoped for offices and pensions, for themselves or their clients, could set out to establish entire new structures of influence at court.

The struggles of this time over religious belief were combined with competition for power and money. This happened all the more readily, in that criticism of the existing practice of rule was increasingly expressed outside the narrow circle of clientele struggles at court, in the form of conversion to the reformed religion. After the death of Henri II, mass conversions became common not only among the bourgeois of the towns, but also in places among the lower and middle ranks of nobles. This general crisis situation became a field of power struggle for noble factions. From 1562 these were waged with arms. When the first noble grouping, under the leadership of the prince de Condé, took up the cause of the Huguenots as its own, the egalitarian parish structures of French Protestantism were rapidly lost.

The groups of nobles and religious factions made their own foreign policy. The Catholic side that dominated the crown's policy in this period received support from the Spanish crown and the pope, the Protestant side from the English crown.

Power struggles between groups of nobles continued bloodily even between actual military campaigns. Both sides murdered in the name of God. Since the Catholic faction led by the duc de Guise dominated the royal army, it could conduct itself more aggressively. (It was this side that provoked the first in a total of eight religious wars.) The crown's attempts at mediation were ultimately unsuccessful, since the struggles within the country for a hold on the generalised power were integrated into international conflicts by the uprising of the Netherlands against Spanish rule. The conflicts culminated in the grisly massacre that Catholics conducted on St Bartholemew's Day of 1572 against the numerous Huguenots who had travelled to Paris to celebrate the marriage of Henri of Navarre; the murder of admiral de Coligny was designed not only to revenge that of the duc de Guise, but also to eliminate the most important general of the Huguenots, and their link man with the Netherlands. The death of many thousand other Huguenots (real or presumed) was designed to prevent their revenge and at the same time stamp out their heresy once and for all. Noble interest and religious fanaticism made a grisly combination.

After the Paris massacre, the relationship of the Huguenots to the crown changed. Up till then French Protestants had not seen themselves as opposed to the crown; on the contrary, they had frequently asked for its protection, and offered to free it from the grip of 'foreigners'. This referred both to the Guise, who ruled Lorraine, and to the Italian bankers who had bought into the Lyon syndicate and profited from the crown's financial distress. This policy came to an end in 1572. Huguenot leaders now formed the view that resistance to royal arbitrary power was legitimate, after the crown had shown complicity in the murders. They demanded a separation of powers, to end tyrannical rule and prevent this in the future: more specifically, greater influence on the representative bodies dominated by the nobility.

The crown still sought to make peace after 1572, by granting privileges to both religious groups. The Catholic nobles now formed a league against Henri III's peace policy. To bring them under control, the king declared himself its leader. This step, however, in no way altered the situation of royal powerlessness against the factions. The peace effort failed, and armed conflict resumed.

On 10 June 1584, the heir to the throne, François of Anjou, died suddenly. There was no further direct heir. The succession was claimed by both Henri of Navarre and the Bourbon prince Charles. Henri was a Huguenot, Charles a cardinal. The Catholic League championed Charles as their candidate. The succession conflict changed the basis of the Catholic faction. From the end of 1584, Paris citizens met in secret to consider how to defend the true faith in the face of the threat of a Protestant succession. As far as is known, members of this secret association concluded early on that it was legitimate to remove Henri III and appoint a successor who would champion the cause of faith more vigorously. The following years saw an increase in the number of those who took the oath to the secret Paris league. Officials, clerics and wealthy bourgeois were joined by printers, employees of the royal mint, members of the *parlement* and other courts, as well as ostlers and members of the royal courier service. The League developed a systematic propaganda in support of the true Catholic faith, and against the possible succession of a heretic (Henri of Navarre had been excommunicated by the pope). This radicalisation was stoked up by royal fiscal policy towards the city and infringement of the possession rights of officials, as well as by the extravagance of the court, the preaching of fanatical clergy, and the execution of Mary Stuart at the behest of the Protestant queen of England.

The leading body of the Paris League, the *Seize*, called after the sixteen districts of the city, developed into an informal municipal government. Emissaries were dispatched to link true Catholics in other cities with Paris in a 'holy union'. As far as sources reveal – Henri IV was to order the destruction of documents from the period of civil war – the situation exploded in July 1588 at the news that the king had ordered troops into the city for his protection. The League took the Bastille, occupied the *parlement* and the houses of powerful 'officials' who were loyal to the king. Barricades were erected in the streets around the Louvre. The king was thus made a prisoner of the League. According to F.J. Baumgartner, the Paris League acted at first independently of the nobility. It was supported by the lower orders in the city, and by leagues in 300 other towns in the kingdom. From 1588 to 1594 the League ruled Paris. Its members spread the notion that the people had the right to depose a tyrannical king and choose a new one. They demanded the regular convening of the *états généraux*, control of royal finances and of the sale of offices.

Henri III fled Paris and laid siege to his capital; in 1589, he was murdered. Henri IV then had to fight against the League for eight years, its candidate being declared king by the *parlement* as Charles X. The Spanish crown and the papacy supported the League's struggle. Peace was eventually not so much won as purchased bit by bit. Henri's representatives made peace with several nobles individually, likewise with many towns. The towns supporting the League had their old privileges confirmed, they received an amnesty for their resistance, exemption from taxes, and assurance that the Protestant faith would not be tolerated within their walls. Nobles and powerful citizens also successfully negotiated offices and pensions for themselves and their clients. The princes extracted especially high payments, the duc de Lorraine receiving 900,000 *écus* for his loyalty.<sup>71</sup>

In many of the 'reconquered' towns, the inhabitants experienced a carefully planned royal *entrée*. Paris opened its gates to Henri IV after he converted to Catholicism. His reputed dictum that 'Paris is worth a mass' is not actually recorded, but pertinent enough. For the *parlement* to accept him as king, he also had to agree a financial reform.

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<sup>71</sup> Greengrass 1984, p. 59.

So long as historians viewed the development of royal rule in 'France' as the construction of 'absolutism', the reign of Henri IV from 1597 to his murder in 1610 could be characterised as the start of this new form of rule. Similar to the supposed despotism of the Tudors in England, the supposed absolutism of the Bourbons required a disciplining of the nobility, explicable in the one case by its self-destruction in the Wars of the Roses, in the other by the wars of religion. But now that preambles to royal legislation are no longer taken as expressing the reality of structures of rule, the persistence of the strength of the French nobility into the seventeenth century has become increasingly clear. This affects our interpretation of the reign of Henri IV, as well as the achievement of his minister Sully.

Today the stabilisation of royal rule under Henri IV is only rarely ascribed to a permanent expansion in the power of the crown and the development of a 'modern state apparatus', but rather to an integration of continuing noble strength into the practice of royal government. This was possible because the long wars had ultimately not only caused widespread distress across the country, but also provoked the anger of the nobility. From the end of the 1570s, peasants had several times risen against the plunder of the nobles and the tax collectors of both sides. The 1590s saw regular peasant wars – especially in Guyenne, Burgundy, Normandy and Brittany. It must have seemed especially threatening that peasants of both faiths frequently joined together in these uprisings. When competition for rulership developed into a crisis of noble rule itself, a readiness for peace grew even among the supporters of the leading noble factions.

Peace could be stabilised because the crown succeeded in conceding so many privileges to factions and corporations that it secured their loyalty and was tolerable to the contending parties. It is in this connection that the edict of Nantes should be understood. This recognised the Huguenots as a group entitled to claim certain privileges guaranteed by the crown. (As was later to emerge, the crown was not strong enough to deliver all that it promised.) In additional documents, the crown conceded the Huguenots the right to a definite number of fortified strongholds, and hence a certain political and military autonomy. In 1611, these privileges were reconfirmed by the new king, but, in the 1620s, when the power relations shifted, the most important privileges of the Huguenots were withdrawn by armed force.



What was new above all in the reign of Henri IV was his recognition of the fact that the levying of *taille* above a certain limit endangered order in the country. Despite the crown's immense indebtedness – almost the entire crown domain was mortgaged during the war against the League – direct taxation was reduced. Indirect taxes were raised instead, in particular the duty on salt, and these were also introduced in areas that had previously been free of them.

At the same time, however, the crown saw itself forced on fiscal grounds to extend its trade in offices. This was so far-reaching that the crown abandoned the fiction of its non-existence. Up to this time, revenue from *parties casuelles* had been officially deemed a loan to the crown. Despite the sale of judges' positions, therefore, it was still required of them that on taking up their position they should swear that they had not purchased their office. In 1598 the crown revoked this obligation.

Already from 1568, lesser officials were allowed to pass on their positions by inheritance, on payment to the *parties casuelles* of a fee of one-third the value of the office. In 1604, the inheritance of office was newly regulated and expanded. By the introduction of the *paulette*, so-called after the king's secretary Paulet, the administration of offices was farmed out. Purchasers of an office received this as a heritable property, and had to pay a definite annual sum (initially set at 1 ⅔ per cent of the purchase price) to the farmer, who in turn made an annual payment to the treasury. The *paulette* reinforced the tendencies already in existence towards a privatisation of the generalised power, and in the long run restricted the room for manoeuvre of patronage practices of the high *noblesse d'épée*. What was new for the royal power in the early seventeenth century was also the basis of its propaganda. The group upholding this development were the 'officials' who had been insulted in the years of civil war as *les politiques*. They championed the view that the most important legitimisation of royal rule arose from the order-maintaining character of its power monopoly. The most pregnant formulation of this new notion of government was supplied by Jean Bodin. Until 1572 Bodin had conceived the reform of royal rule he deemed necessary along traditional lines: as a limitation of royal arbitrariness by the participation of estate representatives. After the massacre of 1572 he shifted the basis of his argument to the need for the *sovereignty* of the king, his most unlimited power possible vis-à-vis all members of society. This notion found all the more widespread support, the further the exercise of rule by the nobility was distant from any notion of 'good order'.

From the end of the sixteenth century, the theory of sovereignty was a fixed element in the foundation of generalised royal rule. Henri IV gave this theory a particular stamp, but only for the duration of his reign, depicting himself as peacemaker and father of the country.

## **b. Contradictory development of the *ancien régime***

'L'Etat c'est moi!' This saying, attributed to Louis XIV, can be taken as the leitmotiv of an interpretation that prevailed for a whole century in historical study of the French *ancien régime*. It culminated in the theoretical construct of 'absolutism'. The rapid spread of this model of interpretation, which was coined in the second third of the nineteenth century, marked a change in the dominant self-conception of French society in the years after the Franco-Prussian war. The prevailing view up till then, if unsatisfactory to many, had seen the Revolution of 1789 as founding a special status for the French nation (so August Comte expressed it), but military defeat promoted the integration of a powerful and splendid pre-Revolutionary epoch into the national hall of fame.

The interpretative model of 'absolutism' stressed that the monarchy had succeeded, thanks to a powerful centralised ruling apparatus, in disciplining the nobility and other possessors of local power so that the country could be governed by the royal court from one end to the other. This was effected by a systematic mercantilist policy, the supervision of earlier administrative arrangements, appropriate population policies and rational policies of public order.

In a certain sense, the construct of 'absolutism' survived by being ignored. The social-historical research orientation that developed in France from the 1930s around the journal *Annales* turned its back on questions of political history without criticising any of its specific concepts. The notion of 'absolutism' also found uncriticised entry into the works of Marxist historians. The high points of this incorporation were the (very different!) works of two foreigners, the Soviet historian B.F. Porshnev<sup>72</sup> and the British social theorist Perry Anderson.<sup>73</sup> Both took the centralisation and expansion of royal ruling power

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<sup>72</sup> Porshnev 1954.

<sup>73</sup> Anderson 1974.

as a proven fact, and differed from earlier interpretations particularly by their judgement that despite outward appearance, absolutism was a form of power representing the general interest of the nobility. Even variants of Marxist historiography in which a critique of the interpretation of the *ancien régime* as a feudal society was undertaken by explaining the forms of this social formation as the expression of two simultaneously existing modes of production<sup>74</sup> did not question the governmental effectiveness of the central power.

This accordingly found itself in close agreement with the developmental model of French history popular until recently in which the strengthening of the crown in the first half of the sixteenth century was given a positive value,<sup>75</sup> and the birth of the modern French nation-state dated from the late sixteenth century. Following the 'anarchy' of the wars of religions, it became possible to discipline the nobility. Admittedly further resistance to the central power occurred in the form of the Fronde (see below). But from the time that Louis XIV governed personally, i.e. without support of a first minister, the crown finally established itself as an effective instance of government. In the wars of the late seventeenth century, however, a crisis situation arose. Depictions of the eighteenth century vary according to the chosen interpretation of the French Revolution. Either the *ancien régime* is seen as in decline from the start of the century, or else it remains stable until the mid-century and is only then shaken by rapid economic change and the crown's financial crisis. A further variant stresses the slow transformation of social relations, interpreting the Revolution as an interruption in the evolutionary process that was merely a historic accident.

Despite these great differences in interpretation of the *ancien régime* in the eighteenth century, the core of the absolutism construct long remained unaffected: in the reign of Louis XIV and to a lesser extent also those of his successors, 'the state' ruled society. The view represented by Marxists, that the crown was 'in reality' the instrument of the ruling class, could be integrated into this conception to the extent that the state was understood as representative of an overall interest of the nobility, albeit coming into conflict with the limited particular interest of individual nobles.

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<sup>74</sup> Cf. Robin 1976, pp. 202–30.

<sup>75</sup> For example Le Roy Ladurie 1987, p. 142.

In the last three decades, the theory of absolutism has been brought into question, initially in particular aspects, but increasingly as a whole. In a certain sense, Eugen L. Ashers's study published in 1960, on the difficulties that Colbert encountered in implementing his naval policy, in particular the manning of ships, can be seen as the starting point for a new view of French government policy. The whole notion of Colbertism as a systematic mercantilist practice very rapidly crumbled, given the manifold indications of a contrary reality. Eventually the role of the *intendants* as unbending instruments of centralisation efforts was also contested, thus undermining one of the main pillars of the 'absolutism' construct. The focus on local research made it increasingly clear that the old aristocracy remained powerful in the provinces, and that the crown could only govern with its assistance. Even the assumption that the material position of the nobility had deteriorated with the inflationary devaluation of payments due from the peasants, in comparison with that of the urban bourgeoisie, is no longer taken as proven. Scarcely anything remains of the thesis that 'absolutism' marked the beginning of the modern state, since historical studies constantly show the opposite of bureaucratisation and rationalisation.

A counter-thesis has gradually crystallised. Society was not ruled by the 'state', rather society had the 'state' completely in its grip. Just as earlier on, the old nobility were the decisive force, not only in the provinces but also at court. At the local level, however, otherwise than was previously assumed, an integration of the *noblesse de robe* into the existing noble strata had already taken place in the seventeenth century.<sup>76</sup> In the eighteenth century, this tendency towards a homogenisation of élites also became clear at a national level.<sup>77</sup> One high point of this literature challenging the 'absolutism' concept was Roger Mettam's *Power and Faction in Louis XIV's France*.<sup>78</sup> Whereas many works of recent years confined themselves to establishing the erroneousness of the 'absolutism' construct for an individual province or city, or for a particular area of politics, Mettam summarised the results of these detailed studies in an overall interpretation of the system of rule that put paid once and for all to the misunderstanding of 'absolutism'. Interpretation of this historical epoch

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<sup>76</sup> Campbell 1988, p. 26.

<sup>77</sup> Campbell 1988, p. 45.

<sup>78</sup> Mettam 1988.

cannot base itself on the preambles to laws, but must rather seek to reveal the hidden power structure.<sup>79</sup> It should also be acknowledged at last that the crown had no intention of appropriating the competence to regulate local affairs. It was only for Paris that it claimed a specific governmental power. Mettam's work is characteristic of the stage of discussion that is regularly reached in historiography when interpretations long handed down are put in question. The 'revisionists' are first of all concerned not to leave a single stone of the former interpretative edifice in place. This means right away, however, that even though their intention is critical, they are still oriented towards the previous interpretation and its problematic. Anyone who already ventures to assert a new synthesis at this stage generally succumbs to the temptation to highlight aspects that have formerly been neglected. It generally takes a 'second generation' before evaluations are no longer simply the product of an attack on the previously prevailing opinion.

For the *ancien régime* in France (by which most people understand the period from the end of the sixteenth century to the Revolution), it is now stressed above all how structurally decisive the medieval elements in state and society still were. In a certain sense, so it seems to me, a good part of present-day research on the *ancien régime* continues to reproduce an analytical weakness of the notions it criticises. Whilst the 'absolutist state' is certainly no longer seen as a modern rational edifice, distinct from later forms of state chiefly by a particularly glamorous representation, the back-projection of a separate existence of 'state' and 'society' is not overcome in the revisionist shifting of the power centre on to 'society'. The personal character of power still remains part of the tradition. The possessors of seigneurial judicial power, however, were not just 'social' forces, they were owners of a part of the power that is nowadays described as 'state' power. Conversely, the majority of 'state' offices in the developed *ancien régime* were not part of a public (state) power, but were private property. 'State' activity was a social process, the dynamic of which was determined to a large extent by private interests of appropriation and status.

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<sup>79</sup> Mettam 1988, p. 87.

### b.1. La monarchie absolue: *structural change in generalised power*

In seventeenth- and eighteenth-century France, there was no internal market comprising all partial markets in the kingdom; there was neither a single law nor a language spoken by all the king's subjects; there was no common culture, no common system of taxation, no roads that facilitated long journeys, and quite certainly no unitary structure of administration. Yet contemporaries referred to the king's rule as absolute. What they meant by this, however, was not the centralised instance of power that would later be assumed in the concept of absolutism, but rather the fact that the king had certain competences in his uncontested possession: he could make laws, decide on war and peace, settle legal conflicts in the final instance, appoint officials, have money coined, and regulate religious belief. What was contested was his right to raise taxes without agreement.

The prerogative power was the possession of the royal person, and from the seventeenth century the king stood out against the dynasty more clearly than before. Externally it continued to be above all the dynasty that reigned. In the settlement of inheritance and marriage strategies, it was still a 'family' policy that was pursued. Internally, however, the rule of the king in the seventeenth and eighteenth centuries lost this family character. After members of the royal house had taken part in the so-called 'princes' Fronde' of 1648, directed against Mazarin's policies, and sought in this way to gain greater influence on the crown's policy, the traditional claim of the royal family to participation in government was to a certain degree delegitimised. In the so-called *polysynodie*, a brief form of government during the regency at the start of the eighteenth century, dynastic supremacy and the claims of magnate privilege were integrated together.

That the king enjoyed certain uncontested prerogative powers, and had the task of maintaining internal order, did not mean that he was in a position to define for himself the proper exercise of this rule. The contemporary tag of *monarchie absolue* applied not to the exercise of prerogative power, but simply to its existence. Compared with the phase that the present work denotes as the beginning of the *ancien régime*, the expansion of this prerogative was immense. In the seventeenth century the crown had been in practice little more than an instance of appeal for the kingdom's courts, an instance of sanction for the social hierarchy, and an instance of distribution for a considerable part of the extracted 'surplus' product.

This expansion in the power of the crown was the result of a process in the course of which rule that was more or less autonomous, or limited only regionally, was integrated into the royal rule. Certain forms of separate possession of rule, though by no means all such forms, were considerably curtailed in the course of this development. The seigneurial exercise of judicial power and even the seigneurial exploitation of so-called *banalités* in this way became *components of a generalised system of personal rule*, i.e. privileges. It is analytically an unhappy choice, therefore, for historians to take the persistence of practices of appropriation that derived from *seigneurie banale* as evidence for the persistence of feudalism. In the developed *ancien régime*, seigneurial [*ban*] rule became a form of private property, which just like other forms of private property was protected, more or less successfully, by royal courts and royal soldiers.

The integration of personal possession of rule into the generalised monarchical power is the key structural characteristic of the developed *ancien régime*. Certain structures of conflict were typical of this system of 'government'. These cannot, however, justify the conclusion of the existence of institutionalised structures of power distribution that previous research has generally supposed. For all institutions of royal rule could be integrated into local structures of the exercise of rule – even if in the particular case they had been established with the intention of supervising or even emasculating local power. The *intendants*, for example, were sometimes agents of royal power politics; far more commonly, however, they functioned as reporters on local conditions for the exercise of royal rule, if not even as mouthpieces for regional (ruling) interests.

There is a simple reason why institutional structures should be seen as a relatively poor source of evidence for the internal mode of operation of generalised personal rule: this rule was exercised along lines of patronage and clientelism. From the possessor of seigneurial power up to the king, everyone who sought to maintain or extend their rule needed the support of a circle of persons whom they could rely on. Only to a certain extent did membership of a clientele and the internal structure of clientele groups coincide with membership and hierarchy of the formal 'apparatus' of rule. Two things were combined in clientelism: the limited instrumental character of all office power, and the integration of familial organisation of the reproduction structure into the objectified pattern of connections of patronage. Even under the devel-

oped *ancien régime*, the family remained the dominant organisational basis for reproduction strategies. In a certain sense, this social form was sanctioned by fiscal arrangements, and by the linking of particular privileges with family origin; at the same time, however, it was also strategically instrumentalised. Kinship connections became central elements in the network of mutual personal dependence and support that was as indispensable for strategies of advance as it was for the exercise of rule.

Many clientele groups were restricted to a particular place or a confined region. But situations continuously arose in which families sought to join clientele groups that were more socially elevated and regionally more far-reaching, or where lords sought to obtain influence on local clientele groups. To this extent, it can be said that the entire kingdom was pervaded by mutually competing and interconnected groupings, the content of which rested on convergences of interest that were either temporary or long-term, and on inherited ties of loyalty. This 'system' was internally quite unstable, yet as a whole it was relatively rigid. For without personal connections, no strategies of advance and enrichment were possible, nor even the defence of social positions already attained. In so far as the exercise of royal rule embraced the entire kingdom, this contributed to the integration of even locally limited clientele groups into a geographically and socially more comprehensive competition for influence, office and privilege. This expansion of the network of personal connections was also the way that monarchical rule was generalised. Just like other lords, the king and his ministers had to take constant pains to maintain and expand their clientele. For the real strength of the king was dependent on the scope and composition of this. This state of affairs was true for most monarchs in societies of the *ancien-régime* type, but nowhere was it so pronounced as in a kingdom where almost all offices were the private property of their incumbents.

The royal court was not only the meeting point of multifarious strategies for expanding the influence of particular clientele groups; specific conditions also obtained there for the play of particular forms of competition. One of these conditions was court etiquette, which from the mid-seventeenth century ensured that political strategies were pursued in patterns of behaviour in which the eminence of the royal person and the distinction of the court nobility were indubitably represented and thus reproduced in practice. If today we have to reject Norbert Elias's assumption that the high nobility of France



adopted the behaviour pattern of etiquette to defend social privileges because they no longer had any real power, the evidence of continuing noble power does not refute his assertion that the nobility used etiquette against those seeking social advance, and that the king used it to demonstrate his own pre-eminence over the nobility. Elias's demand that the court should be studied as a system of rule, 'that prescribed, like any other, quite specific ways of ruling to the person wishing to control it',<sup>80</sup> remains equally valid. The mastery that Louis XIV attained in this art of ruling has recently been impressively described. Paul Sonnino has shown how the king managed to pursue his war against Holland although most of his advisers initially opposed it.<sup>81</sup> Incidentally, the scenario that Sonnino depicts makes it quite impossible to interpret this war as an early manifestation of 'national' economic interests.

Whilst analysis of the court system of rule – along with its structural changes in the reigns of particular kings, and even the course of a single reign – is indispensable, if the object is to explain how specific policies came into being, this field of power play has little importance in the overall context of the structural development of personal rule. The following discussion will therefore largely leave it out of consideration. Instead, the manner in which personal rule was generalised will be specified in relation to changes in the possession of rule and the preconditions of its exercise. With a few exceptions, we shall avoid the depiction of specific events and political conflicts.

### *Armed force*

As far back as 1438, in the so-called 'pragmatic sanction', it was decreed that no one in the French kingdom had the right to raise an army apart from the king. In 1583, Henri III proclaimed once again this basic principle. On both occasions, what was involved was not declaring a right that could already be implemented, but rather announcing a claim to rule. In 1598, Henri IV found it necessary to accept a limitation on the royal monopoly of armed force. In the agreements appended to the edict of Nantes, he granted the Huguenots a specific number of 'armed places', and thus the right to raise local taxes and deploy soldiers.

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<sup>80</sup> Elias 1983, p. 180.

<sup>81</sup> Sonnino 1988.

It was only in the seventeenth century that the French kings could successfully claim the monopoly of armed force, and even subsequently, the crown's power over armed force was not complete. Nobles continued to keep armed retainers, if not so many as before, the ban on duels proved impossible to implement, despite exemplary punishments, and the government's disposal of 'the king's army' was restricted by commissions being the property of their incumbents, and by a company economy. On the other hand, Protestant privileges were abolished in the space of twenty years – La Rochelle falling only after a fifteen-month siege.<sup>82</sup> After the defeat of the Fronde, the crown succeeded in dissolving urban militias. Though these were established again in 1766, this was now effected not simply at the behest of the crown, but also under the supervision of its officials. Paris remained exempt from this regulation. Instead, special guards companies were established there, initially only mounted divisions, but from 1721 also an infantry one.<sup>83</sup> Similarly, under Louis XIV, most of the gendarmerie companies in the provinces were either dissolved, or at least removed from the control of local nobles.<sup>84</sup>

The implementation of the royal monopoly on armed force assumed not only the real generalisation of royal fiscal power, but also international military developments – as we shall demonstrate below. Two aspects are especially important in the present context: the developments in artillery and fortifications on the one hand, and of a standing army on the other. An additional factor in many countries was the establishment of ministries of war (the French in 1758), and special administrative posts responsible only for the military.

When Henri III rode against the Huguenots in 1572–3, commanding the royal army in person, he had Scipio Vergano accompany him to advise on the siege of La Rochelle. The Italian specialist was well chosen, as he had himself organised the improvement of the fortifications there a few years previously. Employment of Italian, Spanish or Dutch engineers was customary in France at this time. Beside very specific tasks, they were generally commissioned to set up local 'schools'. At the turn of the seventeenth century, 'France' had just four engineers of its own. A hundred years later there were three hundred in

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<sup>82</sup> Duffy 1979, pp. 118–21.

<sup>83</sup> Chagniot 1973.

<sup>84</sup> Mettam 1988, p. 43.

the crown's service. By this time, moreover, engineers of the 'French school', which had now become celebrated, were also serving at foreign courts. From the second half of the seventeenth century, already, France had a constant surplus of applicants for engineering positions. Potential candidates frequently served during the king's wars as 'volunteer engineers', in the hope – generally vain – that they might recommend themselves in this way for permanent employment. Those who succeeded in becoming *ingénieurs ordinaires* of His Majesty established under Vauban's leadership a regular girdle of fortifications along the borders of the kingdom.

The development of engineering changed the conduct of war, and changed also the material preconditions for successfully asserting claims to rule. For the high costs of siege warfare favoured strategies aiming at the generalisation of monarchical power.

In the same way as this armed competition for ruling power promoted the increased destructiveness of weapons and the correspondingly greater effectiveness of fortification techniques, so it also favoured the invention of military drill. First introduced in the Netherlands, this new social technique spread across Europe with the Thirty Years War. Hans Delbrück – to whom historians owe the explanation of how form of society, *social* organisation of soldiers, military technique and tactics are connected – characterised the new social technique as follows:

These exercises created discipline, and discipline made possible an exactness and precision of the exercises, which were pursued ever further, viewing and treating the individual as an almost arbitrarily replaceable piece of machinery. Even those who had been initially enlisted quite against their will, by flagrant deceit or brute force, often grew accustomed to this existence and to a greater or lesser extent saw it as expressing the spirit and honour of their division.<sup>85</sup>

As early as the sixteenth century, so André Corvisier has it, the warriors [*guerriers*] of the Middle Ages were replaced by soldiers.<sup>86</sup> But it was only with the introduction of drill as a structural characteristic of military life that, in Delbrück's view, a military institution with permanent conditions of employ-

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<sup>85</sup> Delbrück 1962, IV, p. 293.

<sup>86</sup> Corvisier 1976, p. 21.

ment developed into a *standing army*. This new social form was an invention of the seventeenth century. It was also the first social site for the development of abstract 'labour', the transformation of individual workers into the exchangeable 'cogs' of a social machinery. The underlying rationale of military exercise was initially to facilitate the reloading of muskets during battle without pause for thought. It soon became clear, however, that with the help of regular systematic drill, it was possible to make soldiers out of compulsorily enlisted sons of peasants and artisans, convicts who preferred military service to other punishment, and captured 'vagabonds', so that differences of origin, dialect and way of life lost significance in relation to their common vocation.

Together with the establishment of particular branches of administration, the practice of exercise was one of the structural preconditions for the gradual separation of 'the military' from 'the civilian'. In France this distinction was still at an early stage when the *ancien régime* came to an end. The period of engagement certainly grew longer. Already for the time of the Thirty Years War, Robert Caboche has established, on the basis of entries made on acceptance at the Hôtel des Invalides, that a considerable number of soldiers – some 20 per cent of those analysed (most of whom hailed from the northern provinces) – had served for more than thirteen years, and over 40 per cent more than ten years.<sup>87</sup> These are clear indications of lifelong service, even if extra years were sometimes added as a bonus. In the seventeenth century, moreover, barracks scarcely existed. Soldiers either bivouacked in the open, or were billeted in private households. Scarcely any privilege under the *ancien régime* was so urgently requested as exemption from billeting. Not only was this arrangement inconvenient, for many it also involved a tremendous financial burden. In the course of the eighteenth century many cities built barracks precisely in order to spare their citizens the billeting of soldiers in their houses. But during the Wars of the Spanish Succession, when the army contained many compulsorily enlisted recruits, the accommodation of soldiers in private houses was still typical and common not only in the countryside, but also in the towns. Many people were thus familiar with the living conditions of soldiers, and this may explain why many were prepared to help the numerous deserters that there also were at this time.<sup>88</sup>

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<sup>87</sup> Caboche 1973, p. 16.

<sup>88</sup> Corvisier 1964, p. 953.

From the time that the crown sent *intendants* out to the provinces, to make administration more effective and controlled, the violent attacks of soldiers on civilians were reduced (though by no means everywhere); robbing expeditions by discharged foreign mercenaries also became more rare.

The standing army was supposed to consist in the main of volunteers. Compulsory enlistment was actually forbidden in 1692, at least in formal terms. Contracts were then made for a term of eight years. During the service period and for one year after, soldiers were exempt from the *taille*, which, on the one hand, put them in a similar position to the nobility, while, on the other, it spared the crown money on their payment. Sometimes, though less commonly than was formerly supposed, prisoners were pardoned if they were prepared to join the army; former galley slaves, however, who had been branded, were not accepted in the army, though vagabonds frequently were. The pay of a simple soldier matched that of a journeyman in a moderately respected trade. Companies composed of foreign soldiers received better pay, but were also under stricter discipline.

Efforts were repeatedly made to transform the royal militia into a volunteer force. Because these failed, the militia was actually abolished for a four-year period in the 1690s. When war began again, the militia was reorganised on the basis of lots. Certain groups were exempted from service, and there were regions from which relatively few soldiers were demanded. Many people who were picked by lot paid substitutes instead. Officially, the service of the militia was confined to guard duty in the garrisons, but in wartime whole divisions were 'incorporated' into the regular army. During the War of the Spanish Succession (1701–13), this 'incorporation' occurred immediately on the summoning of the militia. The three-year service term, moreover, was not adhered to. According to Corvisier, not a single militiaman was discharged during the years 1708–12 after his service term came to an end.<sup>89</sup>

In 1702, a total of 220,000 men were under arms in the service of the French crown. A year later, the number had risen to about 300,000, more than ever before in any European kingdom.<sup>90</sup> This tremendous military force, however, cannot be simply translated into the strength of the government internally. Since the object of wars was not defence against an invader, but rather to

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<sup>89</sup> Corvisier 1964, p. 241.

<sup>90</sup> Goubert 1966, p. 286.

assert dynastic claims, many people did not see why they should put their life or those of their sons at risk, tolerate billeting and pay ever higher taxes. Military abuses reinforced this unwillingness. It was precisely in wartime, however, that the crown found it almost impossible to keep regiments ready for the purpose of putting down possible unrest. Their repressive power was confined to punishment expeditions – though these were, as a rule, draconian enough. Wherever possible, foreign mercenaries were employed for campaigns of this kind. Roger Mettam warns against overestimating the crown's capabilities for armed implementation of its policy.<sup>91</sup> Even if we take into consideration the tremendous fiscal and directly military burdens imposed by the War of the Spanish Succession, the disturbances and protests that emerged at this time can scarcely be deemed a danger to the system of rule. On the contrary, uprisings were customary phenomena of an exercise of rule that denied whole strata of the population other opportunities of making their interests known.

For Louis XVI's reign, a hundred years later, J.F. Boshier reaches a different verdict from that of Roger Mettam on the reign of Louis XIV, seeing the crown's repressive potential as very far-reaching. He refers to the regular army with its strength of 150,000, a large territorial police troop (the *maréchausée*), 75,000 militia men (though from one decade to the next these were not called up, and not even trained), as well as the royal guards regiments with a further complement of at least 7,000 soldiers.<sup>92</sup> The events of summer and autumn 1789, however, made it clear that the military potential of the crown could not be measured in troop strength, let alone its officially reported figures. Not only was the government's power of disposal of the means of repression restricted by the potential and in some cases actual resistance of soldiers to being deployed as a police force against people whose rebellion was kindled by hunger, but it was also limited by the social organisation of the army.

Just like other offices, commissions in the army (and the militia) were venal. They did not become hereditary, and officers did not pay the *paulette*. There were, however, possibilities for estate-type enrichment. In societies of the *ancien-régime* type, the appointment of officers expressed the basis of noble privilege. When professionalism was implemented, the nobility's traditional

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<sup>91</sup> Mettam 1988, p. 36.

<sup>92</sup> Boshier 1989, p. 73.

notion of honour was transformed into the honour of serving the king. In France, such development long remained limited, though this did not affect the high rank of an officer's commission. In actual fact, many officers of the royal army considered their post far more as a token of social rank than an obligation to professional activity. This meant, among other things, that regular terms of service were unknown, and often even regular presence with the army. Many officers in the eighteenth century, according to Scott, only encountered lower ranks or private soldiers when they had to impose or execute punishments.<sup>93</sup> The great majority of higher officers not only lived at a social distance from the rank and file or even junior officers, but also at a spatial remove. The training and provisioning of the latter was quite unfamiliar to them, let alone the mood among the soldiers. In 1789, this situation led to Louis XVI's military advisers not venturing to express any opinion as to whether the regiments of the king's army would obey orders or not. We shall return to this situation below. What should be stressed for the moment is that the specific social form of military command limited the crown's disposal over its own army.

On the one hand, the development of the officer corps expressed the general conflicts over the continuation and defence of privileged social positions. On the other hand, the king's army was also a specific and particularly hard-contested ground for struggles over social position. In the course of the eighteenth century, the army became something like a stubbornly defended last bastion in which the pre-eminence of the *noblesse d'épée* was still maintained.

In respect to the organisation of armed force, as elsewhere, the wars of religion marked the decline of the nobility's traditional exercise of rule. Though cavalry played a central role in these battles, its organisation in the form of an assemblage of individual warriors had already been proved obsolete, and attempts were under way to reform it.

Whilst it had up until now been seen as a way of life for male nobles to fight when required in the king's wars, the new military techniques and updated strategies required both a more extensive training and a greater subordination than had previously been the custom. Not all were ready to adapt to these demands. From the time that officer commissions had to be bought, many nobles also lacked the means to compete with sons of families from

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<sup>93</sup> Scott 1978, p. 35.

the Third Estate, including those from the *noblesse de robe* who had only been ennobled in the last generation.

Already under Louis XIII, but especially under Louis XIV, the government undertook systematic efforts to undertake professionalisation of the army in a way that both maintained the social precedence of the *noblesse d'épée* and met the financial requirements of the crown. Whilst the purchase of officer commissions and promotions was generally retained, this system was abolished for particular ranks, and for positions in the royal guards regiments, so as to offer the possibility of advance to high military posts for eminent but relatively poor members of the landed nobility.<sup>94</sup> A seniority principle was introduced, under which experience and length of service became grounds for promotion. There continued to be promotions representing a reward for special services, and there were also opportunities for promotion for non-nobles. Such *officiers de fortune*, however, scarcely ever rose above junior officer rank. If this did happen, they were confined to routine activities, and continued to be treated socially by the other officers as common soldiers. From the time of Louis XIV on, apart from special technical companies there were hardly any officers in senior ranks who were French-born but not nobles.<sup>95</sup>

Though the wars of Louis XIV had initially nourished the hope that the crown's power politics would continue to provide for the *noblesse d'épée* and guarantee its social precedence over rising social groups, this certainty began to break down at the turn of the eighteenth century. The sons of the less well-off *noblesse d'épée* were confronted yet again with the power of money. On the one hand, such a luxurious lifestyle was customary among officers that private wealth was required to join in socially, while on the other hand the relatively poorer members of the *noblesse d'épée* were increasingly excluded from advance through non-venal positions. Promotions of this kind were awarded within each regiment, and since the long wars had eroded the private means of most officers, regimental funds were established to guarantee a retirement appropriate to their station. Promotions were now made dependent on the candidates declaring themselves ready to pay a particular sum to the regimental fund on taking up their new rank. This practice, known as *convocation*, was frequently forbidden, but not rooted out. In effect, the non-purchasable

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<sup>94</sup> Corvisier 1976, pp. 113 ff.

<sup>95</sup> Bien 1974, pp. 29 & passim.



positions now also had a price, but this flowed not into the king's treasury but into the regimental fund. At all events, the proportion of members of the *noblesse d'épée* in the king's service had fallen by the mid-eighteenth century. But at least 80 per cent of all officers were still 'of noble blood', amounting to about a quarter of potentially available male members of the *noblesse d'épée*.

Though non-noble officers were despised by their noble comrades as bourgeois, a detailed analysis does not completely bear out this judgement. More precisely, the nobles' defence strategies were directed against competitors who in almost all cases already bore a noble title. An officer commission enhanced the social value of a relatively recent ennoblement. In the view of many *nobles d'épée*, this effect was the only reason why the sons of well-to-do 'bourgeois' sought a military career. For the military virtues, which, in their view, were inborn in any genuine noble, were necessarily lacking in members of the Third Estate. An increase in the proportion of non-noble officers, they argued, was bound to damage the army. When a cadet school was founded in 1751, the parents of these boys – who were accepted at an age between eight and eleven – had to show evidence that their family had been noble for at least four generations. According to Corvisier, this requirement was in fact met by the same procedure formerly used by the financial administration, the assertion of four witnesses sufficing to confirm such a period of nobility (supported if need be by the payment of bribes). The defenders of estate privilege objected not only to the tacit toleration of social ascent strategies, but also to measures aiming at realising a coincidence between noble rank and military command, as was the practice in Prussia (and in a certain sense also in England): i.e. the raising of all officers to noble status. In a decree of 1750, this practice was accepted for all *officiers généraux* (staff officers), as well as for junior officers whose fathers and grandfathers had already been exempt from the *taille* on the grounds of their military service, and who had been awarded the cross of St Louis as a reward for their long service career. There were very few individuals who could meet all these qualifications.<sup>96</sup>

After the French army suffered a devastating defeat at Rossbach in 1757, demands for fundamental reform became widespread. These were partly directed at the luxurious life of the officers, partly at the influence of 'money' in the army, partly again at the lack of enthusiasm for service. From 1757 to 1760,

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<sup>96</sup> Corvisier 1976, p. 116.

i.e. during the Seven Years War, some 1,500 officers had asked to resign and been permitted to do so. In the three decades that followed the war, additional and improved training facilities were established, the company economy was abolished along with the purchase of officer commissions, the influence of the ministry on promotions was extended and the re-purchase of commissions by the crown introduced. (At the outbreak of the Revolution, a large proportion of commissions were now the property of the crown.) Schools were also introduced for the sons of other ranks, and orphanages established for the children of fallen soldiers. Efforts were also made to improve arrangements for the treatment of wounded. These reforms went together with strategies designed to defend the pre-eminence of the old nobility in the army. In actual fact the nobility succeeded in 'confiscating' the reform, as Corvisier puts it.<sup>97</sup> Many were ready to make a sacrifice in order to achieve this goal. They accepted the requirement of training, the abolition of the company economy with the loss of what were often substantial income opportunities, and the abolition of the practice of *convocation*; they ultimately accepted even the command to wear uniform. Certain competitive advantages of the nobility were ended in this way. Official strategies of exclusion were insistently demanded, however, and with increasing success, against all the recently ennobled who despite the massive social discrimination strategies of the officer corps could not be prevented from striving for an officer career. Besides the claims of the nobility for access to training establishments, instructions were already given to the army inspectors in 1758 only to propose candidates for officer appointments who could prove their nobility. The reform of the training system sharpened the demands for proof of nobility. In the 1770s, this was even extended to the artillery schools. The nobility thereby claimed supremacy over a military field that, for two hundred years, had been seen as less socially exclusive. In the royal guards regiments, officer candidates had to prove from 1774 that their family had been noble for two hundred years, a period that was soon after extended to three hundred years. The royal decree of 1781, known as the decree of Ségur, thus only regularised a practice that had already been implemented in the previous decades. All that was new in the decree was that the required evidence of nobility was now formalised (birth announcements, documents from the tax authorities, letters patents, etc.), in such a way that

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<sup>97</sup> Corvisier 1970, p. 81.

anyone who tried to present their noble status as older than it actually was, was deprived of the pleasure of deceit.

In a certain respect, the dissolution of the *compagnies des gendarmes d'ordonnance* in 1788 marked the apogee of these strategies to ensure the privilege of the old nobility in the army. It corresponded to the need for a reduction in costs. Whereas the *gardes du corps*, in which the high nobility dominated, were unaffected, the *gendarmerie*, in which there were also non-noble officers, and where, according to J.G. Devos and P. Waksman,<sup>98</sup> a service ethic independent of estate had developed, fell victim to these economy measures.

The strategies of the nobility were in general successful in their attempt to keep the army as a noble institution. Yet those who had most vigorously pursued them, members of the poorer *noblesse d'épée*, profited from this success only to a limited degree. For what eventually emerged was a relatively exact convergence between estate hierarchy and military rank. Despite the establishment of stipends in the cadet schools, and the official abolition of the purchase of officer commissions, the military career for sons of the poorer nobility culminated in the rank of lieutenant-colonel. Higher ranks remained reserved for the court nobility. If the army of the 1770s and 80s still contained a few ennobled and bourgeois officers, these are estimated at no more than 1 to 2 per cent. Their career ended with the rank of lieutenant. After the military reforms of the 1760s, candidates to a junior officer position had to provide that they could read and write. This excluded competitors from the common people almost entirely. Scarcely anyone who did not hail from the well-off bourgeoisie reached a rank above that of corporal. As Corvisier points out, a virtual 'second front' of exclusion practices arose in this way. Whilst the rank of lieutenant was the upper limit for *roturiers*, promotion for sons of the poorer strata of the population ended at the most junior officer ranks (corporals did not count as junior officers). This explains why the Revolution very rapidly constructed a new convergence between social and military hierarchy. The better-off social strata provided the officers, the people provided the soldiers.

The army always stood in the foreground of the French crown's fighting forces, in terms of military policy as well as financially and socially. It remained so even as the sites of power politics shifted, with 'England' now

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<sup>98</sup> Devos and Waksman 1973.

replacing 'Austria' as the main enemy of 'France', and overseas strategies of trade and colonial policy gaining new importance. To a certain degree, however, the conditions of generalised rule under the *ancien régime* are shown particularly clearly in the case of the navy. For as this was only really founded in the second half of the seventeenth century (at the end of the Thirty Years War, the crown possessed scarcely more than a handful of seaworthy ships), its development was not prevented by centuries-old traditions and long-established material interests. Colbert, who was controller-general of finances under Louis XIV, made sure that the navy did not become the plaything of competition for privilege. Both naval officers and the naval administration were selected according to competence, and the best specialists obtained for the arsenals. Given the development of naval artillery and the altered requirements of shipbuilding and navigation that this led to, such an orientation to specialist expertise would seem quite unavoidable. Its most important expression was the fact that positions of command in the French navy could not be purchased, nor could administrative positions (the *officiers de la plume*). But the navy could not be organised as a kind of social enclave. Patronage ensured that the higher ranks of naval officer were generally occupied by nobles, while bourgeois could only reach the rank of warrant officer and gain certain administrative positions. (The constant conflict between naval commanders and bourgeois *officiers de la plume* became one of the causes for the ineffectiveness of the French navy, once it was no longer under the strict control of Colbert.)

When the crown began its immense shipbuilding programme, it was not hard to find officer candidates. In 1689, the French naval strength was over 120 vessels.<sup>99</sup> Not only was this twenty more than the English crown had at its disposal at that time, but these were ships built according to up-to-date experience of the most favourable combination of striking force, speed and manoeuvrability. This technical advantage of the French navy over the English lasted until the end of the *ancien régime*. Yet it did not lead to a military superiority on sea, as the navy was drastically cut back after the War of the Spanish Succession (by 1739 it was down to 50 ships, while the English strength had risen to 124). The structural inefficiency of the eighteenth-century French navy had two other important causes, which could not be

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<sup>99</sup> Kennedy 1987, p. 99.

overcome by the tremendous reconstruction programme that was begun in the 1750s (by 1756 its strength was back up to 70). The first of these resulted from a government disinterest that had persisted for decades. Promotions were effected almost without any heed paid to ability, training of new recruits was neglected, and friction between administration and ship's commanders was a constant problem. In the last instance, the officers of the fleet were an undisciplined bunch. The second structural problem of the French navy was the difficulty of manning. Even the great efforts made in Colbert's time could not solve this. To ensure adequate manning of the galleys, which at that time were still organised separately, courts were requested to sentence more prisoners to this punishment. It was also hoped that volunteers could be found for the navy, but this was in vain. The adequate manning of warships was not only threatened by natural disadvantage but also by military conflicts, since trading ships were seized by foreign corsairs, or else commandeered by their owners for temporary pirate expeditions if they received *lettres de marques* from the crown; wages in the merchant navy were also higher as a rule than on the king's ships. The government then resorted to press gangs, but the results of this recruitment practice were disastrous both on sea and on land. To appease the discontent of the population and help root out unsuitable personnel, a so-called system of classes was introduced in 1689. All able-bodied seamen between 18 and 60 had to be registered – more precisely, the male population of the coastal districts. They were grouped into classes, and their working life was supposed to be divided between three-year terms in the navy interspersed with half-pay periods on land.<sup>100</sup> To implement this service obligation, a special judiciary was appointed. The whole arrangement, however, was immediately blocked, not only by those who potentially were directly affected, but also by local officials. Even the crown's request to priests to preach the duty of royal service did little to help matters. The service obligation was evaded by flight, and the local authorities refused to prosecute the offenders. As for those who were successfully recruited, they frequently rose up in mass mutinies. Many deserters hired themselves on French or foreign merchant ships. The view was long widespread among historians that the reason for the lack of trained seamen in the French navy lay in the competition with the prospects offered on merchant ships and

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<sup>100</sup> Asher 1960, p. 7.

corsairs. In his detailed study of the French navy in the age of Louis XIV, James Pritchard has refuted this argument quite decisively. Over the decades, he found, many men in France did serve on naval ships for shorter or longer periods, not only those recruited through the system of classes, but also volunteers from inland districts. When the alternation arrangement was abolished at the start of the eighteenth century, life-long service engagement became possible and more common. The principle of half-pay was then established as a provision for old age and a support for the injured and crippled. As early as 1689, seamen in the French navy were given certain privileges, such as exemption from the billeting of soldiers, from tax collection and local guard service, even if, right from the start, these privileges were very often infringed. But all this, so Pritchard finds, did not impede manning so long as wages were more or less regularly paid. The ineffectiveness of the navy in his view was above all the result of the system of financial management. This was in the possession of private financiers, who provided the crown with short-term credits and earned immense sums in a pretty regular way. A short time after the start of the Seven Years War, the payment of wages stopped and suppliers' bills were not settled. Sailors could now only be found if five months' wages were paid in advance, instead of the previous two months'. Even so, the number of deserters rose so greatly that the death penalty for desertion had to be *de facto* suspended. Returned or captured deserters were punished only with deduction from their pay – which they might well not receive anyway. War at sea was financed almost entirely on the basis of forced loans that the crown imposed on suppliers and the ships' companies. Even later on, these debts were not settled. In such circumstances, it was not surprising – in Pritchard's view – that many ships had to be destroyed or surrendered to the enemy. In 1758, it is estimated that at least 20,000 seamen were in English captivity, rising to 26,000 in 1762. This was despite the fact that many thousand prisoners annually fell victim to the spread of infection.

When the Seven Years War came to an end, reforms were demanded not just in the army but also in the navy. According to Pritchard, naval reform rarely progressed beyond mere intention (a fact that was long overlooked, since the supposed reality of reforms was based on the decrees of Choiseul). The decisive factor here was not so much that there was still no unity of command (though the incorporation of the galleys into the navy was effected) and that the connection with the knights of Malta, who had their own agenda,

could not be dissolved, but rather that the navy remained an institution whose development and readiness was dependent on profit interests.

### *Fiscal power*

In an essay on 'Financial Science and Sociology' first published in 1917, Rudolf Goldscheid proposed that 'financial history supplies not only the way into state history, but also into the study of state structure and function'.<sup>101</sup> The example of the French *ancien régime* shows this analytical proposal as even more promising than its proposer supposed. For whilst Goldscheid derived the development of the system of finance from a 'common financial need',<sup>102</sup> i.e. functions of the state that had a basis in society, for *ancien-régime* 'states' the development of the financial system is actually a constituting moment in the development of social structures. Nowhere is this more evident than in France. Not only were struggles for the possession and exercise of rule in the seventeenth and eighteenth centuries quite overwhelmingly struggles over the conditions of generalised appropriation. The possession of specific tax privileges was seen as the decisive determination of social status, and the profits that could be drawn in one way or another from the royal fiscal power contributed considerably to the material reproduction of the ruling estates. Lastly, the crown's financial 'administration' was also a regular structural factor in the contemporary system of employment. In the first half of the seventeenth century the crown employed at least 75,000 people in the collection of direct taxes alone. If we include the peasants who had the obligation of collecting local taxes, at least for temporary periods, then this number is increased by a further 80,000 to 100,000. That would be a total of between 2 and 3 per cent of the male population.<sup>103</sup>

The most important structural feature in the financial system of the French crown can be summed up very simply: it was not a means to an end, in the sense that Goldscheid had in mind (i.e. for functions of the state), but largely a purpose unto itself. To put it in modern terms, the financial 'administration' was not the *precondition* for state-organised redistribution, it was a system of private appropriation in its own right. 'Domestic government' meant the

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<sup>101</sup> Goldscheid 1976, p. 320.

<sup>102</sup> Goldscheid 1976, p. 321.

<sup>103</sup> Collins 1988, p. 16.

control of private participation in the royal fiscal power in such a way that not only the fiscal preconditions for external power politics, but also the political ones, could be fulfilled and maintained. Any interpretative model that studies the tax 'administration' of the *ancien régime* only in respect to its directly fiscal yield, and thus works within an analytical framework of administrative efficiency, is inappropriate to its object of investigation. Worse still: this erroneous interpretation of the financial system obstructs access to analysis of the operational and crisis conditions of generalised rule under the *ancien régime*.

The financial system served to finance the court and the king's wars, to meet the costs of diplomatic manoeuvres abroad, and to purchase loyalty at home. To this extent it was a means to specific ends. At the same time, however, it was also an organisation for material participation in the centralised fiscal power. Some forms of this participation were stigmatised as corruption, even under the *ancien régime*. But the structure of the financial system meant that the dividing line between permitted and 'corrupt' practices of appropriation was not defined legally, but only ever in political terms. If we start by examining the regular forms of benefit from the power of taxation and the state debt, the first of these was nomination to financial office. With the introduction of the *paulette*, this meant the acquisition of an inheritable property that yielded a rent in the form of a salary. In the 1620s and 30s the crown sold many new financial offices, this being one of the most rapid ways of getting money. All the more so, in that aspiring purchasers and office-holders could be forced to make loans to the state. These forced loans were sometimes repaid, but by no means always, and could be written off by a policy of state bankruptcy. By machinations of this kind, the organisation of tax administration was itself transformed into a form of tax.<sup>104</sup> This could be a reason why the profits from office fell, though offices remained attractive to many people as an access to noble status. The devaluation of offices by their multiplication, and by the introduction of new administrative structures, was one of the reasons for the office-holders' Fronde. To convert their ill-will into action, it only needed, after several increases in the tax on inheritance (the *paulette*), the announcement in 1748 that the *paulette* would be completely abolished. From 1716, many financial 'officials' were not only owners of their office and

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<sup>104</sup> Collins 1988, p. 97.



thus possessors of claims to rents and a power position giving them access to forms of income that in France of the *ancien régime* were described as *pot-de-vin* (acknowledgement for services in the form of presents, patronage and other favours), they were also owners of a right to the tax that they collected. From this time on, the crown sold rights of this kind, and continued to sell right after right. The practice was introduced because of a short-term need for money, whereas the collection of tax regularly took too long in relation to the crown's pressing requirements.

The increase in direct taxation that led to uprisings in many places in the 1620s and 30s did not mean any increase in the sums reaching the crown, as it simply involved the surcharge of *droits* on the previous sum. In many districts, it became impossible to collect direct taxes in the 1630s, when the costs of billeting had to be added to the costs of collection. The far-reaching breakdown of the tax 'administration', and the 'collection' of taxes by the military that was then required, was by no means the least important factor in leading the crown to reduce the permitted share and increase its own share of the tax take. Tax refusal was widespread at this time, but above all there was the refusal of local tax officials (in which connection it is uncertain whether these did not continue to collect sums for their 'rights' even if no taxes could supposedly be collected). The alternative of tax terror was not very effective. The *dragonades*, i.e. the deployment of dragoons in 'administering' tax, often produced so much destruction that villages in which dragoons were billeted could not be taxed again for a good while to come. Eventually the crown abandoned the attempt to devalue or abolish the rights that it had itself offered for sale. This practice only came to an end in the eighteenth century. The coincidence in time with the introduction of taxation on the nobility led Collins<sup>105</sup> to the supposition that the *vingtième* and *capitation* were alternatives to obtaining funds by the sale of tax shares.

A further form of private enrichment from the royal fiscal power was tax farming. We have already explained how one reason why the crown made use of this form of collection was to rule out legal proceedings against its own administration. It was indirect taxes in particular that were leased out, the most important of these being the tax on salt or *gabelle*.

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<sup>105</sup> Collins 1988.

Previously used only in particular cases, the practice of tax farming became more general in the course of the sixteenth century. At first private individuals leased the collection of a particular tax in a particular district from the *élu*, the tax officials responsible for an *élection*. Under Colbert the concentration of the farming system was taken further. In 1726, finally, the *ferme générale* was introduced, a kind of syndicate. The principle of economic operation was scarcely changed. The tax farmers were commissioned to collect indirect taxes, and could deduct from the sums extracted a contractually established share – as compensation for their expenses and as profit. The farmers in turn, whether they were individuals or companies, sub-leased shares in the tax farm to a large number of private operators, known in the seventeenth and eighteenth centuries as *croupiers* or sometimes *partisans*. Some of these *croupiers* were ‘active’, i.e. assistants and employees of the tax farmers, but most were a kind of shareholder in the private profit drawn from the tax authority of the French crown. These last, who participated only economically, included artisans and small traders, well-to-do bourgeois, but especially a large number of nobles. They even included both Louis XIV, who endowed his mistresses from this source of profit,<sup>106</sup> and Louis XV.<sup>107</sup>

Tax farmers drew their main profit not from their actual share in the tax take, but rather from the advances that they paid the crown on future tax collection. These advances attracted interest, at an average rate of 15 per cent. In the 1620s, when the crown implemented the forcible unification of the kingdom by depriving the Huguenots of their former military privileges, and at the same time made substantial payments to allies in the Thirty Years War, the interest rate rose to 30 per cent.<sup>108</sup> It is no wonder that many people were ready to invest in participation in the tax farm. In the years of the Fronde, when a large number of office-holders and nobles rebelled against the crown, many of the noble leaders also held papers entitling them to a profit from the expenses that their rebellion cost the crown. The tax farm was thus a kind of joint stock company and credit institution. Its role in this last capacity was confirmed when the project of a state bank failed in 1716–20, not least due to the resistance of the tax farmers and other state creditors.

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<sup>106</sup> Goubert 1976, pp. 254 ff.

<sup>107</sup> Hinker 1971, p. 32.

<sup>108</sup> Lublinskaya 1968, p. 305.

From 1726, the *ferme générale* was a fixed institution, with leases limited to a few years at a time but with its own offices and buildings, and even a staff who were mainly employed on a permanent basis. Between 1726 and 1740 alone, the *ferme générale* is thought to have made a profit of 60 million *livres*, not including interest.<sup>109</sup>

The tax farmers were a specially privileged social group. Though not employees of the crown, they were in its commission, and were entitled just like senior 'officials' to carry a sword. They were exempt from military service and city guard duties, from the billeting of soldiers and various other burdens imposed on members of the Third Estate, and they could only be accused before the *cour des aides* in Paris. These privileges were supposedly granted only to farmers concluding contracts, but were extended in practice to all participants.

For anyone visited by the tax controllers, seeking smuggled salt or other goods liable to tax, the status guarantees of the tax farmers were somewhat incidental. What was relevant for them was that the agents of the tax farmers could not only call on them at any time with military support, but were also empowered to imprison people, without even having to provide a judicial decision.<sup>110</sup>

From the mid-eighteenth century, critical views on the tax farm piled up in political writings, for example Montesquieu's *Spirit of the Laws*. But, because the tax farmers had a private interest in the level of the tax yield, and indirect taxes made up a good third of tax income at this time, the prospect of reform was almost non-existent. The tax farm was not only protected by its close connections at court, but also by the interests of many participants great and small whose hopes lay in its profits. In 1780, Necker made the first encroachment on the tax farm, withdrawing certain taxes from its remit, in particular excise duties. The opposition provoked by this measure, and others in the same sense, led to his downfall, and even to a restoration of some of the tax farm's lost remit. Though the crown continued in 1787 the policy begun by Necker of restricting private profit from its power of taxation, residues of the *ferme générale* persisted until 1792.

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<sup>109</sup> Stourm 1968, Volume 1, p. 18.

<sup>110</sup> Durand 1976, p. 15.

Tax farmers were not the crown's only creditors engaged in its tax system. Far more so were those officials responsible for the various distinct royal treasuries or for the collection of taxes in the *pays d'état*. In the late seventeenth and early eighteenth centuries, Daniel Dessert has estimated the number of financiers, i.e. the tax farmers and those officials who 'did business with the king's money' at around 3,000, including 534 who in his view enjoyed great influence and were integrated into the clientele structure of the power élite.<sup>111</sup>

In order to grasp the mode of operation of this financial business, we have first to bear in mind that only a small part of the tax collected was sent to the capital. The structure of expenditure was decentralised. There were separate funds for the different expenditures of the crown, e.g. the army, navy, roads and bridges, and the maintenance of royal buildings. The managers of these had the task of collecting the revenues allocated to them and making certain payments. This led to a situation in which surpluses could exist in certain funds while others were unable to meet their obligations. The *contrôleur général* – the description of whose office derived from the intended double bookkeeping by *contre rôle* – had no opportunity of obtaining an overview of the actual financial situation of the crown. Reports might be sent in, but the manager of the naval fund, for example, did not deliver a single account between 1771 and 1787.<sup>112</sup>

The crown also gave out pensions to the nobility, not in the form of a claim on the central treasury, but for example a claim to the income derived from a certain mill on the basis of its local monopoly. It was then up to the pensioner to make good his claim vis-à-vis the fund responsible for collecting this income. As we have explained above, this could be a lengthy process, and often unsuccessful. The pensioners therefore sold their claims to financiers who had entered this particular business, for sums that might be far less than those they were entitled to, but were at least secure.

So that the crown could use its own administration as a credit system, the highest financial offices were only sold to individuals who already possessed great wealth. (In the case of offices acquired by inheritance, this precondition was ensured by long-term family strategies.) The office-holders used the money they received for investment, especially in the tax farm. As long as

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<sup>111</sup> Dessert 1984, pp. 79–81.

<sup>112</sup> Boshier 1970, p. 139.

the amounts were recorded, this was not corruption but normal business and official practice. They would then give the crown short-term credit in time of need, i.e. during the wars of the seventeenth and eighteenth centuries. They also issued paper money, the convertibility of which was actually secured not by the crown as such, but by its 'financier officials'. The creditworthiness of this group was high, resting as it did on the security of future tax collection. (Only in 1788, when tax income was leased out for three years in advance, did these financiers find hardly any takers.)

Until the seventeenth century, the king had chiefly resorted to banks for credit, but bankers stopped acting as financiers after the crisis of the banking centre of Lyon, caused by the Italian campaigns. This brought the influence of foreign lenders to an end. In the seventeenth and eighteenth centuries, the government used banks principally if French troops were fighting in the territory of its allies, and so could not be supplied by means of an occupation regime. In these cases, provisions had to be obtained in foreign currency, and banks were regularly approached for transactions of this kind. Otherwise, the crown's real financiers were either tax farmers or finance officials.

Of the 534 financiers who according to Daniel Dessert possessed great influence in the reign of Louis XIV, 422 were noble. It is true that more than half of these had been ennobled in their lifetime, while 104 were second-generation nobles and 69 third-generation.<sup>113</sup> But even the newly ennobled were not social climbers in the general sense of the term. For the tricky business of a financier did not just suppose considerable personal wealth and an extended introduction to the legal and institutional finesse of this branch of business that was carefully organised by his family; it required above all the patronage of influential persons. Without powerful supporters, it was not just impossible to get anywhere in the business of the king's fiscal power, but one was exposed without protection to ministerial strategies of repression that had to be expected at the end of each war. Just like all other forms of participation in centralised rule, the private exploitation of state debt was practised *en famille*, and in a context of clientele groups engaged in mutual conflict.

The course of the *ancien régime* saw both long-term structural change in the financial system, and typical conjunctural fluctuations in business conditions. The first of these included the attempt made to expand the compe-

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<sup>113</sup> Dessert 1984, p. 98.

tence of direct taxation to the *pays d'état*. The crown only had direct taxation power in the so-called *pays d'élection*, those districts governed by royal officials. These were divided into *généralités*, each being subject to a *général*. The subdivisions of *généralités* were the *élections*, called after the *élu*, the financial officials responsible for them. In the *pays d'état*, on the other hand, those districts represented by (variously composed) estate assemblies, the crown charged the governor it appointed with agreeing the level of contributions to be provided in negotiations with the assembly. In these districts the crown controlled neither the form of taxation nor the tax administration. It had to resort to diplomatic strategies, and quite often found itself forced to confirm old privileges or bestow new ones, in return for agreement to the sums it requested. Apart from the fact that the sums promised were by no means always delivered, being reduced by all kinds of factors from hailstorms to the billeting of troops, the tax collection in the *pays d'état* was simpler than in the *pays d'élection* because local opposition was expressed in the negotiations with the governor, and there was generally no further resistance once an appropriate compromise had been reached. By extending the direct tax administration in this sense, the crown could even expect a better yield, but the route to this lay through the sale of more offices. (In the 1620s and 30s, new offices were created almost entirely for financial reasons.) This led to violent protests.

In Aix, for example, the *parlement*, along with local nobles, artisans and members of the lower orders, opposed the introduction of *élus* in 1630. The uprising that these protests provoked was led by the *parlement*, until the poor people began to wear symbolic little bells or *cascavoux* after which the uprising was subsequently named. These bells were a warning to all who profited from taxation or expected to do so. When the lower orders of the town, along with the peasants from the surrounding area, eventually took action against a landlord with the reputation of being particularly unjust, a civil war broke out, at the end of which the more well-to-do inhabitants of the town willingly opened the gates to the king's régiments. The town paid its contribution, and the administrative reform was abandoned.

The course of one particular revolt, taken here from the work of René Pillorget,<sup>114</sup> is exemplary, and makes immediately clear why a protracted scholarly dispute could break out over the interpretation of the pre-Fronde. Porshnev,

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<sup>114</sup> Pillorget 1964.

who was the first to study systematically the many tax revolts in the first half of the seventeenth century, saw these as a conflict between rich and poor – a class struggle. Mousnier, the main representative of a critical counter-position, stressed the unity of local urban resistance against the claims of the crown. A number of excellent studies were subsequently provoked by this dispute, and have made clear – sometimes against their author's intention – that the events were marked by both structures of conflict.

As the direct appropriation of landlords had to compete with that of the crown, given the existing structures of production, many landlords supported the uprisings. Local officials for their part defended their rights and appropriation authority against the attempt to reduce both of these by a change in administrative organisation. Where indirect taxes were levied in regions that had previously been exempt from them, or where urban exemptions from the *taille* were abolished, there was general resistance under the leadership of those who had most to lose. The same also went for those towns where after 1634 troops were permanently billeted because of the war, so that the privilege of exemption from this plague was not honoured. Everywhere, however, the common resistance against the crown fragmented if it was radicalised by the common people and threatened no longer just the tax collectors, but all lords and their agents. The conflicts of interest among the better-off, and the competition between centralised and direct appropriation, lost their importance as soon as the entire structure of appropriation was endangered. This was then shored up by regiments summoned by the royal government. This shows how, despite all the competitive relations, the most general social basis of the *ancien régime* consisted in an interest of the better-off in regulated conditions of appropriation that transcended estate limitations.

In the period of the pre-Fronde, this interest was the precondition for the establishment of a militarised system of tax collection under the control of the *intendants*. This was, in turn, one of the reasons why, apart from isolated resistance movements, especially that of the *tard avisés* ('belatedly notified') in the early eighteenth century, the heyday of tax revolts came to an end with the Fronde. The second reason is to be seen in the change of social structure in the countryside. The great tax revolts of the peasants, such as the *croquants* uprising in the province of Guyenne that began in 1635, the Périgord uprising two years later, and the revolt of the *nu-pieds* in Normandy in 1639, were however still marked by the organised resistance of entire villages.

According to Yves-Marie Bercé, the unification of these movements was generally first achieved by using the inconspicuous context of market days for meetings. On the appointed day, church bells were rung and villagers came from miles around to the place of assembly. The rebels were not unorganised crowds, but communities responding to an agreed signal. At one of the largest gatherings, in Blanzac on 6 June 1635, according to a contemporary report:

Some four thousand men arrived, organised in companies of twelve to fifteen, armed with arquebuses and pikes, and led by their priests. For want of drums they marched – in good order – to the music of their own pipes and fiddles.<sup>115</sup>

The armed peasants elected a *conseil du pauvre peuple ruiné*, passed resolutions in which they demanded the restoration of rights and freedoms, in the hope that these would open the eyes of the king to their unjust treatment.

This resistance was initially quite successful. In the region of the *croquants*, neither tax collectors nor employees of the tax farmers appeared in autumn 1636, and the finance officials did not venture to leave the city walls. In Normandy, too, no taxes could be collected for several months, as the war prevented the crown for a time from sending enough troops to the province. Forces were then brought in from other areas. An army of some 7,000 men (other sources speak of 10,000) took the field against the rebels, and put down the 'barefoot' revolt with unparalleled severity. Captured rebels were hanged in Avranches on the very evening of the battle. The royal army passed through Normandy like a hostile country. Villages were burned down, women and children murdered, the population plundered. Prisoners were tortured in Rouen in a search for ringleaders. Those not hanged were sent to the galleys. The walls of the town were levelled. Judgement on the rebels was removed from the local authorities and given to a special commission with extraordinary plenipotentiary powers, as the local authorities were suspected of collusion with the revolt, or at least culpable negligence. A fine of a million *livres* was imposed on the province, and troops were stationed there for several years to come.<sup>116</sup>

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<sup>115</sup> Cited after Bercé 1974, p. 369.

<sup>116</sup> Foisil 1970.



As we have already stressed, repression was only one of the reasons for the end of the tax uprisings. The second is that in the course of the *ancien régime*, differences of possessions and interest grew greater in the villages, and increasing class contradictions hindered common resistance. The *coqs de village*, the big farmers who were often agents of the landlord if not themselves lessees or owners of landlord rights, were increasingly the masters of the poor peasants and day-labourers. Many of them managed to acquire a noble office and thus exemption from the *taille*, so that the sum levied on the village had now to be paid by the poorer inhabitants. The structures of appropriation already existing were thus accompanied by new local dependences and structures of appropriation, which is why, apart from certain exceptions, after the Fronde the bells of the villagers no longer sounded for a common resistance to taxes. At root, even the uprisings known as the Fronde followed to a great extent the pattern described here for regional rebellions. This was largely an opposition to strategies introduced by Mazarin that did not meet the precondition for the exercise of royal rule, i.e. respect for established personal, corporative and local privileges. Many earlier *frondeurs* took part in the restoration of order, and the crown could not avoid rewarding their services. It was only for the great nobles and princes of the blood, who had tried to use the revolt of office-holders for a renewed expansion of their own power, that the Fronde had permanent consequences: they were commanded to live in future at the king's court, and could absent themselves only with permission. After the Fronde, the crown took pains to prevent the high nobility from constructing a power position of their own.

For a long time, the period of Jean-Baptiste Colbert's office was seen as a time of fundamental change in the practice of government, and thus also in the financial administration. In the last three decades, however, the image of Louis XIV's controller-general has been totally demolished. The peak of this effort was Daniel Dessert's work establishing in 1984 that the only successes which Colbert can genuinely be ascribed are the enlargement of his private fortune and the further rise of his family.<sup>117</sup> Not only did all his ambitious projects fail to materialise, but he even managed to provoke a new financial crisis for the state in record time.<sup>118</sup>

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<sup>117</sup> Dessert 1984, p. 337.

<sup>118</sup> Ibid.

Financial crises became endemic under the *ancien régime*, as the costs of war rose sharply, and with them the indebtedness of rulers. And though incomes in France had also increased, with every war the government came up against its fiscal limits, despite special taxes, forced loans, non-payment of contracted services and other forms of 'income'. By 1648, the state debt is estimated at 170 million *livres*.<sup>119</sup> In 1788, the costs of credit finally overtook current expenditure on the military; the traditional hierarchy of expense headings was reversed.

The end of almost every war led to the establishment of a so-called *chambre de justice*, an investigating commission with judicial powers. This measure regularly had four objectives. First, proclamation of the appointment of a *chambre* indicated that the government was prepared to examine its fiscal situation and bring it into good order. In this way the high burdens imposed on the population could be blamed on individual evildoers. Second, the *chambre* was supposed to improve (or restore) the government's control over its own administrative apparatus. Third, the special courts for their part served to defend the dominant clientele group of nobles, financiers and ministers against unwelcome competitors. And, finally, *chambres de justice* were a further way of raising income, as a kind of tax on the financiers.

The reasons for the situation that these *chambres* were supposed to rectify were created by the government itself. In every war, its very existence depended on its financiers extending short-term credits, or obtaining these by their personal creditworthiness. The readiness to speculate on the state debt was a basic precondition not just for the financing of war to function successfully, but for it to function at all. In principle, all finance officials were to produce verification and compile accounts (requirements that Colbert specified in more detail). In practice, the government was unable to control these 'officials' as long as it was forced to depend on them for paying its soldiers, hiring seamen, procuring weapons and horses, and much more besides. The financiers invested their own money and that of others, and they demanded a high rate of interest which they deducted immediately from the funds provided. They issued paper money and arranged for this to be accepted as a means of payment by departments of the royal administration. (Already, in the early seventeenth century, the crown had to accept tax payment from

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<sup>119</sup> Boshier 1970, p. 13.

soldiers and sailors in *assignats* issued in its name for their pay.) The operation of this entire system rested on confidence in the relative security of the investments. If a war was long drawn-out, great profits could be made.

The *chambres* established at the end of a war demanded accounts, and they investigated business practices going back for years. There were confiscations, and in some cases even executions. On the whole, however – and this applies especially to the influential financiers – it was the finance ministry that decided, following the investigations, the level of fines to be paid. In this way, the exercise of special jurisdiction was transformed into a tax on profits. (Financiers were therefore accustomed to conceal a large part of their wealth, as a protection against both tax and public criticism.) As Dessert has shown, ministerial confirmation of the judicial findings also served to break the preponderance of a particular clientele group. Colbert ruthlessly made use of the *chambre* to destroy the lobby of his predecessor Fouquet and position the ‘Colbert lobby’ in a privileged position. The interpretation of the *chambre* as an important instrument in the context of factional struggles between clientele groups consisting of financiers and other influential individuals, is criticised by Dessert, who characterises them as a purely fiscal institution. Dessert also emphasises that the *chambres de justice* promoted the climate of suspicion and insecurity that surrounded the activity of the financiers, despite their great profits and creditworthiness. Even if contracts frequently stated that those privileged were to be protected from investigation, it could never be guaranteed that a *chambre* would not override this exemption. Fines were sometimes even demanded from the heirs of a financier when they had already alienated the privileges they had inherited on the express condition of abdicating all responsibility for the business practices of the deceased.<sup>120</sup>

At the end of Louis XIV’s long wars, a *chambre de justice* was once again established, at the beginning of the regency period. This was to be the last of a series. In the further course of the eighteenth century, governments abandoned this measure. According to René Stourm, the *chambre* of 1716 examined the accounts of 4,000 financiers and imposed some 200 million *livres* in fines.<sup>121</sup>

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<sup>120</sup> Dessert 1984, p. 223.

<sup>121</sup> Stourm 1968, Volume 1, p. 20.

Along with the *chambre de justice* of 1716, the government began an attempt to separate business with the state debt from the practice of the royal financial administration. A bank was founded on the basis of joint-stock capital, after the plan of the Scottish economist John Law. The notes that this issued were to be covered by profits from colonisation projects. In 1720, this project ended in a great financial debacle. Historians long agreed with Law's contemporaries over the reasons for this: airy plans, and irresponsible speculation with the credibility of little people. More recently, however, it has been established that the previous financiers opposed this competition vigorously and with eventual success, and it was conceded to them that the paper money that had been regularly in use since the sixteenth century among financiers, army and arsenal suppliers, *croupiers* and bankers, would now also be used beyond this milieu of financial specialists. At all events, the failure of Law's project meant that the foundation of joint-stock companies was not only forbidden for a while, but that these remained in bad odour in France for a very long time to come.

Whilst the attempt to separate business and administration failed in the 1720s, the introduction of new forms of tax was successful. The *capitation* of 1695 and 1702 represented the first general tax on income from land.

The *capitation*, however, was not the beginning of a systematic new tax policy, but rather a hasty fiscal attempt to obtain money, even if by a means that had been proposed by reformers. This is clear from the fact that both the *capitation* of 1701 and the royal *dixièmes* levied in 1710, 1733 and 1741, were immediately offered to the tax farmers. The clergy were exempted from the *capitation*, the extension of this privilege being balanced by an annual 'voluntary present'. This remained considerably below the sum that would have had to be paid under the *capitation*, but it likewise brought funds in speedily and spared protracted disputes. Certain towns and orders also purchased their exemption from the *dixième* by agreeing an annual tax payment in the form of the *abonnement*. The most forceful protests took place where attempts were made to establish a genuine tax basis, assessing tax according to land yields (particularly, therefore, in the districts of *taille réelle*). This attempt had to be abandoned, as did the plan to raise a tax of one-fiftieth on production.

When the *pays d'état* rejected the right to an *abonnement* in 1749, a new attempt at structural reforms was made. The *dixième* was now abolished, and no negotiation was permitted over the *vingtième* that was introduced in

its place. (The *pays d'état* had obtained a moderation in the *dixième* by conceding regular and immediate payment; this moderation was the so-called *abonnement*.) This government strategy failed in the case of the clergy. For this also had the privilege of an *abonnement* (in the form of a so-called *don gratuit*, i.e. payment of a 'voluntary contribution' instead of a tax). The *pays d'état* also profited from the resistance of the clergy. More *abonnements* were now conceded. The crown did however profit fiscally from all this, for the sums that the *pays d'état* offered as substitute for the *vingtième* were higher than those it had previously paid as substitute for the *dixième*.

After the mid-century, the Seven Years War and the financial support of the North-American rebellion against the common English enemy all indicated the limits of the royal taxation power. The crown did not have the political means of curtailing the profits that private contractors made from taxation. The tax collectors themselves – who were not agents of the government, but of the officials that employed them – were frequently incapable. Many of them could neither read nor write. The agents of the financial courts that intervened in case of dispute were well-known to accept bribes, so that practically no one turned to them twice to protest against tax injustices. The *gouverneurs* had to report to the king that their provinces could not bear any more taxes, and despite a renewed militarisation of the tax collection (soldiers now often came immediately instead of court officials), nothing more could be extracted from the peasants – and this, moreover, also because the peasants of the French *ancien régime* had learned to appear wretched even when they did not suffer unusual distress.

In view of the limits to the *taille*, the crown attempted special taxes, but this constantly encountered bitter resistance from its *parlements*. In the early 1760s, Maupeou tried to defeat this with a coup d'état. He reduced the *parlements* to purely advisory bodies (see below), but on his resignation in 1774 Louis XVI reversed this measure. Necker's attempt to reform the financial system was doomed to failure even before he started out in 1776. For the restoration of the institutional refuge of existing privileges stood diametrically in the face of the plan to 'nationalise' the financial administration. Necker's first period of office came to an end in 1781. After the financial situation had dramatically deteriorated, he was recalled in August 1788. Indeed, in the last months before the Revolution, the separation of business from administration had been introduced. Purchase of the highest financial offices was abolished;

the lower officials were made responsible to the government instead of simply to those who had engaged them; the separation of the different funds was abolished.<sup>122</sup>

These structural reforms were possibly even more decisive for the dissolution of the forms of financial system characteristic of the *ancien régime* than was the abolition of estate tax privileges by the Revolution. This is first of all because these latter were, in all likelihood, rather less substantial than was long supposed. There is no doubt that the peasants bore the main burden of taxation under the *ancien régime*. The *taille*, in particular, was levied almost exclusively in the villages. But the indirect taxes, the relative share of which had risen steadily since the seventeenth century, did not have estate restrictions (though in a few cases there was also exemption from indirect tax, for example on the purchase of wine). In the south, where the tax was levied not on individuals but on land, nobles had to pay the *taille* in so far as they leased land that was taxed. The burden on the privileged varied considerably in the *pays d'état*. Eventually, from 1695, various direct taxes were raised without regard to estate membership. The effect of these, however, cannot be deduced just from the institutional arrangements. On the one hand, the ability to get into arrears with taxes without having to fear repressive measures rose with social status,<sup>123</sup> while on the other, a tax collector from the lower orders could not impose on wealthy peasants, let alone noble proprietors or landlords, a tax proportionate to their income. Despite all this, if the relative tax advantage did indeed rise with social status and wealth, this tendency was not so extreme as has often been supposed – especially if the tax on possession of office, the enforced purchase of state bonds and other loans that had often to be written off is taken into account. Historians today generally assume that the tax burden of the French nobility under the *ancien régime* was at least as great as that of their English counterparts.

If debate on the financial system is focused on the question of the tax structure, interpretative models are applied to the *ancien régime* that were developed for bourgeois societies. The central function of the tax system under the French *ancien régime* then remains outside the frame, i.e. that this was an organisation of private appropriation. In so far as this form of appropriation

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<sup>122</sup> Boshier 1970.

<sup>123</sup> Marion 1974, p. 55.

involved making speculative gains and protecting these from possible government taxation, it was a risky business. In comparison with possible alternatives, however, such as the acquisition of land, or participation in colonial and merchant ventures, it was in general not only far more profitable, but not especially insecure. There was also the great advantage of comparative anonymity (which permitted the outward practice of forms of appropriation that were characteristically 'noble'). The *chambres de justice* did indeed frequently investigate the *croupiers*, but it was left in the dark whether these were the actual financiers or simply straw men. Even ministers whose policies like those of Mazarin and Colbert aimed at curtailing the opportunities for financiers to profit, themselves staked high sums speculating on the very state debt that gave them such headaches in their official capacity; many noble ladies were actively involved in the business as well.

For the end of the seventeenth century – and, on this point, his results are valid for the eighteenth century as well – Daniel Dessert concludes that female business activity extended to all sectors of the exploitation of royal resources. These ladies frequently had considerable influence. Almost a fifth of the creditors of the three farmers-general Aubet, Bonneau and Chatelain were women. Some eminent ladies, according to Dessert, were also as professional and competent financial experts as their male colleagues, pursuing their business with equal passion, diligence and consistency.<sup>124</sup> Dessert adds that these results of his research should lead to a reassessment of the role of women in seventeenth-century French society. In the case of widows, especially, participation in financial business considerably reinforced the position of noble women in their household.

Taken as a whole, the financial system along with the facilitating role in appointments formed the material basis of clientele structures in the government system of the French *ancien régime*. The extent of state indebtedness signals the importance of appropriation through exploitation of centralised fiscal power. It was chiefly, though not exclusively, members of the privileged estates who profited from this appropriation. The apparently impenetrable tangle of privileges, along with tax and financial particularisms, had a method to it: centralised appropriation was structured by the competition of clientele groups for a hold on portions of the royal fiscal power. When this struggle

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<sup>124</sup> Dessert 1984, p. 364.

was temporarily silent, this meant that the government no longer had any credit, and thus not sufficient basis in the privileged and well-to-do strata of the population. Refusal of credit was the form in which those strata of French society who were dominant materially and by estate, obtained influence on policy. If, as was the case at the beginning of August 1788, there was only 400,000 *livres* left in the state treasury, 'enough money for the government to function for an afternoon',<sup>125</sup> and no more credit could be obtained, this meant the bankruptcy of a government.

State credit died several deaths under the French *ancien régime*. As so many times before, it was recalled to life once again in autumn 1788, after the resignation of Brienne and the reappointment of Necker. But in the 1780s the financial crisis had reached such an extent that the creditworthiness of the crown as such was undermined.

### *Judicial power*

We do not know how many seigneurial courts there were in seventeenth- and eighteenth-century France, but a minimum figure would be 80,000. Their owners had either inherited, bought, or been granted by the king, the right to sit in judgement over 'their' peasants. Most of these landlords only held lower jurisdiction, but the more elevated ones also had so-called middle jurisdiction. It was not hard to recognise if a *seigneurie* belonged to a powerful lord, the sign being a visibly located gallows, showing that the lord had power over life and death.

When Louis XIV sought to establish a clientele among members of the *parlement de Paris* after the Fronde, he not only let selected local dignitaries purchase land that he had in his possession, but also granted them the competence of 'blood jurisdiction'. Only this made them into really eminent lords.<sup>126</sup>

In many regions, such as the Île de France, seigneurial jurisdiction had almost completely disappeared by the eighteenth century; in others, for example Franche-Comté, it was stubbornly defended with the support of the local *parlement*. We scarcely know what peasant families thought of these courts; many of the *lumières*, however, publicly criticised them. As John Mackrell has established, this criticism bore almost entirely on the venality of the judges

<sup>125</sup> Schama 1989, p. 282.

<sup>126</sup> Mettam 1988, p. 261.



(appointed by the landlords), and on the fact that they generally delivered their verdict in village inns.<sup>127</sup> The fusion of private appropriation power and judicial power was not an issue for these critics.

If we focus not so much on their position in the system of government, but rather their relevance for the practical life of many French people, we have also to consider the urban courts or *assiettes* (courts of secular dioceses) and the lower church courts. All these institutions had overlapping competences, and consequently found themselves in disputes with each other and with the appeal courts. Defendants could try and exploit this competitive situation, but strategies of this kind took time and money. One could rarely be sure that another court would not declare itself an appeal instance, and quash the original judgement. The result was the development of an extensive practice of informal arbitration.<sup>128</sup> Sometimes, the activity of these arbiters was as important a part of local public-order practice as the jurisprudence of royal courts.

In the following discussion of conjunctures in the relationship between the crown and its highest courts, it should be borne in mind that these did not have an immediate impact on the living conditions of peasant families (i.e. nine-tenths of the population). These conjunctures were however decisive for the crown's exercise of rule, as the lines of royal rule under the *ancien régime* ran above all through its fiscal, military and judicial practice. Because the generalised power was scarcely expressed in a 'government' understood as a regulation of social practices (see below), administrative arrangements continued to be laid down by judicial instances. Though town authorities were integrated into royal rule, the crown did not attempt to determine their local practice. It claimed such power only for Paris, decreeing regulations for house building, demanding that snow be cleared along mail routes, intervening in the organisation of policing, and so on. Elsewhere, local government remained, exceptions apart, the concern of locally influential individuals and groups, so long as fiscal demands were met, and peace and order maintained. In cases of conflict, the royal government generally intervened in the form of decisions of its appeal courts, as had been the case right from the start of the *ancien régime*.

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<sup>127</sup> Mackrell 1973, pp. 137 ff.

<sup>128</sup> Mettam 1988, p. 258.

The various appeal courts and their respective powers (defended against each other as well as against the crown) need not concern us here. The general structure of royal jurisdiction can be explained by the example of the *parlements*. These had not only judicial and administrative significance, but were politically important as well. The laws decreed by the crown became valid only when they were registered by the *parlements*. And though this registration did not amount to participation of these courts in making legislation, the right of remonstrance meant all the same an institutionalised opportunity for criticism with a delaying effect. In 1763 the crown demanded that all future registration be effected immediately, but this practice was implemented only for a short time.

The government could compel the registration of any particular law, by the presence of the king in the *parlement de Paris* and the presence of the *gouverneur* in the provincial *parlements*. It could exclude unco-operative members of a *parlement* from its patronage, have them imprisoned, and if need be remove them from office. It could send the entire judicial body on leave, or banish its members to a remote location, but on political grounds it did not dare remove all members of a *parlement* from an office that was their private property. If the *parlements* refused to co-operate with the crown, this lost the apex of its government apparatus. Though the members of the *parlements*, besides their material and status interests, were characterised by what Bailey Stone has called a parliamentary 'mentality',<sup>129</sup> being as it were born members of the king's party, this was not at any price. If they defended their own privileges and those of others, and sometimes even heeded the interests of the lower orders, they claimed the old rights of their corporation. When the crown renounced the advice of the *états généraux*, the potential political importance of the *parlements* rose. This was the case from 1614 until 1789. For all this time, any persistent opposition by a *parlement* meant that all other resistance to royal fiscal policy was in a certain informal sense also judicially legitimised. The example of the Fronde reveals the basic structure of the relationship between the crown and its highest courts.

The revolt known as the Fronde developed in 1648 from a refusal of the *parlement de Paris* to register new financial legislation. The government, which was currently involved in peace negotiations with the emperor and was still

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<sup>129</sup> Stone 1986, p. 140.

at war with Spain, threatened not to continue the *paulette*. The Paris church bells then sounded the call for revolt, and the citizens seized arms. In the 'days of the barricades', prisoners were released from jail. The political demands made by the *parlement* were accepted by the crown, especially the dismissal of Mazarin and the limitation of royal arbitrariness. Once the royal family had managed to flee the capital, the government laid siege to Paris. The *parlement* organised the city's defence. Certain great nobles 'supported' the rebels, seeing the rebellion of the magistrates and the people of Paris as an opportunity to assert their claim to participate in the determination of royal policy. This aspect of the uprising has gone down in history as the 'princes' Fronde'.

At the start of its resistance, the *parlement de Paris* sought the support of the provincial *parlements*, but only those of Rouen and Aix agreed to work with it. The lower orders, on the other hand, reacted almost throughout the country with renewed tax revolts. Great nobles in the provinces tried to turn these resistance actions to their favour, in some places even after the *parlement de Paris* had already made peace with the crown. For a short while, regional opposition movements were also supported by certain *parlements*. In general, however, it was the instances of the royal government who saw to the capitulation and the punishment of the less eminent rebels. In Bordeaux, for example, the local uprising known as the *armée* had temporarily disempowered the former governing agencies of the crown.

Interpretation of the Fronde, and the tax revolts that preceded it – sometimes known as the pre-Fronde – was for a long time the object of bitter dispute (see above). Whilst Porshnev held that the Fronde arose from class struggles over appropriation and had placed the republic on the historical agenda, Mousnier saw the Fronde as the apogee of rebellions against the crown's centralisation efforts that had a cross-class character. More recently, historians have rejected both interpretations.

According to Roger Mettam, the Fronde arose from the coincidence of several different rebellions: the tax revolts by the most heavily taxed groups that were 'normal' in the first half of the seventeenth century, the resistance of the *parlement de Paris* in defence of the property and privileges of its members, and along with this a palace revolt. Apart from the 'princes', the rebels did not generally demand a weakening of the crown, i.e. a reduction in the degree of centralisation then reached, but rather a well-ordered government, more precisely the end of the repressive strategies associated with the name

of Mazarin. (In this connection, the countless pejorative *mazarinades* that were circulated against the king's first minister were to a certain degree taken literally.) This interpretation is supported by the fact that, while the start of the personal government of Louis XIV did signal a change in government strategies – a renewed policy of patronage and privilege towards important strata of the ruling estates, in place of overt compulsion –, it did not involve a basic redefinition of power. The same went for the magistrates, the group of royal 'officials' whose rebellion had expanded the many separate resistance movements into a genuine crisis of government. If for many years there were no remonstrances, this was not because the *parlements* had been tamed. It was rather that the successful projects of the young king, and his respect for the privileges of his magistrates, transformed the *frondeurs* into collaborators with the crown.<sup>130</sup>

Neither the establishment of a *conseil de justice* (1765), nor the reduction in the (official) price of judicial offices, nor even the fixing of preconditions for such offices (i.e. for the opportunity of bidding for them) worsened the relationship of the crown to its highest courts. In so far as these regulations all served to increase the honour of the corporation, and restrict access to judicial office to the 'robinocracy',<sup>131</sup> rather the opposite was the case. The crown had no other strategy at its disposal, so long as there could be no question of abolishing the fees that judges charged for performing their office.

The pride of the judges in their position, something that the crown promoted, was, according to Bailey Stone, the guiding thread of the *parlements'* policy in the eighteenth century, both in Paris and the provinces.<sup>132</sup> There were certain principles of 'constitutional law' that became, over time, a part of their members' self-conception: the view that the highest courts should be concerned with the maintenance of a hierarchically ordered society and the protection of private property (taken also to include privileges), as well as the defence of a certain independence of the French crown and church from Rome (a form of Gallicanism specific to the French *parlement*), and a paternalistic relationship towards the less well-favoured strata of the population. Certain of the *parlements* also had their own specific traditions, such as the

<sup>130</sup> Beik 1985, p. 97.

<sup>131</sup> Stone 1986.

<sup>132</sup> Stone 1981; 1986.

vigorous defence of serfdom by the *parlement* of Besançon, or the Paris *parlement*'s opposition to the superstition that vented itself in the provincial trials for witchcraft. The opposition of the *parlements* to the policies of the king's ministers and especially to their reform attempts, an opposition that became notorious, can be explained without difficulty in terms of the paternalistic and status-conscious self-conception of a privileged group of officials, the members of which possessed not only land and generally the seigneurial rule that went with it, but also lived off rent from town land and buildings. This line ran from the bitter struggle of the *parlement de Paris* against the power of the Jesuits, through its opposition to the transformation of the *corvée* (the obligation of peasants to maintain highways), as Turgot had proposed, into a financial contribution to be paid by all landowners, its resistance to the abolition of the *dixième* (also proposed by Turgot), down to its struggle against the establishment of provincial assemblies. (These were set up in 1787 to perform some of the former functions of the *intendants*, as well as some functions of the *parlements*, and were not constituted on the basis of the estates.) All these conflicts that emerged in the second half of the eighteenth century, and were sometimes very violent, in no way marked a new position on the part of the *parlements*, a sudden turn to aristocratic reaction, but rather the defence of a world of privilege and hierarchy that the office-holders of the supreme royal judicial power had long seen as their task. Franklin L. Ford, in a work published in 1962, argued that the policy and significance of the *parlements*, especially that of the *parlement de Paris*, had changed with the social rise of their incumbents. This had supposedly blocked the way for the crown to continue limiting the power of the *noblesse d'épée* with the help of the *noblesse de robe*. Conversely, the increasing social and kinship fusion of the two strata of nobility in the eighteenth century also made it impossible to use the special courts to control the practice in office of the *noblesse de robe*. For the great nobles active in these courts were no longer prepared to prosecute their relatives in the *noblesse de robe* (for a different explanation, see above). The rapprochement of the top layers of the two strata of nobility deprived the king of the possibility of playing off one of them against the other. This removed the most important basis of the (absolutist) power of the king, the competition between 'robe' and 'sword', and brought the royal power into a structural crisis. Against this sociological theory of absolutism, it has since been objected that – at least in the provinces – the fusion of the two strata of nobility had occurred already

in the seventeenth century, and moreover, no fundamental change in judicial strategies can be shown for the eighteenth century. The most important criticism of Ford's interpretation, however, derives from the finding that generalised rule under the *ancien régime* was organised in the form of the competition of clientele groups. While institutional and estate differences did come into play in this competition, these were never a structuring aspect of it, since all the powerful – including the king – were aware that their 'clienteles' cut across institutional and estate competition. The change since Ford's work in the interpretation of the role that the *parlements* played in the crisis of rule, also indicates that this did not arise from any new strategies, but rather from the unerring continuation of traditional *parlement* strategies in fundamentally altered circumstances.

When the crown's financial crisis assumed previously unheard-of proportions, in the wake of the Seven Years War and support of the North-American independence efforts, and the strategies for maintaining positions of nobility in various fields sharpened into a bitter defence against emerging forces, the adherence of the *parlements* to traditional positions meant a weakening of the crown, in as much as this was prevented from reforming its exercise of rule. Maupeou, the first minister of Louis XV, recognised this situation and reacted with all severity to the *parlements* both in the provinces and in Paris.

Some provincial *parlements* were sent on leave or banished, others forbidden to petition on behalf of the disciplined *corps* or to make contact with one another. The members of the *parlement de Paris* maintained that this ban obstructed the performance of their office, and thus damaged their office as property. They reacted with a judicial strike. The government then sent the *parlement* members *lettres de cachet*, individually and at night, either banishing them to prescribed locations, or confining them (in a few cases) to their estates. What was new here was that the members were not prescribed a common place of exile, as had traditionally been the case. Instead they were carefully isolated from one another. The most bitter critics of the government were given places of exile in mountainous or marshy districts. Touching stories soon made the rounds of magistrates who had to travel in the thick of winter, sleep on straw and have furniture and provisions sent them from the nearest towns. When the exiles did not, as expected, each offer their obedience, their offices were declared unoccupied and confiscated. A substitute court was established in Paris, the provincial *parlements* were abolished, and –

as Maupeou later wrote – ‘more sensible district courts’ set up. Though the new judicial institution in Paris was boycotted both by lawyers and the police authority, the government remained unyielding until the end of Louis XV’s reign.

In 1772 Louis XV died, and in 1774 the rights of the *parlements* were restored. The new government hoped that with its help it could implement its financial legislation. Whether this strategic turn was a ‘mistake’ – as J.F. Boshier<sup>133</sup> believes – is not our concern here, rather the fact that in a situation of widespread opposition to the royal fiscal policy, the opposition of the *parlements* was seen as a different issue from that of their role as the expression of general interests. This made the magistrates into ‘representatives without mandate’ (Egret), and historians previously debated why they did not make political capital out of the situation. As far back as 1883, Jules Flammermont wrote: ‘The men who acquired their offices for money could not summon up the courage to demand the right to legislate in the name of the people’.<sup>134</sup> In fact, the great majority of members of the *parlements* could not be brought to change their self-conception even by cold and discomfort. They continued to see themselves as true servants of the king (none of them thought of rejecting the terms of their banishment), asking only for their old privileges to be respected. To convince the crown of their right, they demanded a number of times from 1787 that the Estates General should be summoned, well aware that this would support them. They demanded its convening according to the regulations that had held sway in 1614, convinced that the better ordering of monarchical rule required a return to the principles sanctified by tradition.

#### *Sanctioning of conditions of appropriation by ruling power*

Scholarly discussion of the forms of appropriation of the developed *ancien régime*, and the structural context of its material reproduction, has been dominated in the last few decades by two sets of questions: the question of the modernisation potential of absolutist state power, and the debate on the causes of the French Revolution. As far as the first of these goes, it is now in a state of unravelling. When the concept of absolutism was still unchallenged, the task of research was only to explain the details of government develop-

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<sup>133</sup> Boshier 1989, p. 90.

<sup>134</sup> Flammeret 1883, p. 143.

mental policy in each national state, but as the concept of absolutism has been challenged, the idea of systematic mercantilist economic promotion has also been somewhat shaken. Little is now heard of the celebrated French heroes of mercantilism, Sully and Colbert, and Colbertism, which had previously been seen as a particularly systematic case of development 'from above', is nowadays described as a mere illusion, or even a fiscal and bureaucratic obstacle to development. Of all the results of this historical revision, what especially stands out at this time is the demonstration that there was scarcely anything at the time that could be described as a national market, that peasant production – especially that of poorer peasants in the more remote districts – was involved in market relations to a far lesser extent than was previously thought, and above all, that legal texts say little or nothing about actual economic relations, or even actual government policies in the provinces. As to a new assessment of the importance that the specifically French form of generalised rule and concrete political strategies had for material relations, there have been general proposals – above all Robert Brenner's thesis of the structural importance of the French state as an *independent* institution of exploitation<sup>135</sup> and George C. Comninel's analytical concept of an economy of owners of land and office – but no analysis of the overall connection that systematises the results of recent decades.

The situation is very similar in respect to the second of the debates mentioned above. The explanatory concept of the French Revolution that was previously dominant has been dismantled, but no new one established in its place. Whilst criticism of the concept of absolutism proceeded more or less unchallenged, criticism of the so-called 'social interpretation of the French Revolution' has been the object of bitter struggle between opposing schools. For the question of the social-structural causes of the Revolution involves a debate not only between scholarly and political positions, but between entire world-views. The 'social interpretation' applies to the French Revolution a Marxian concept of the 'bourgeois revolution' as a social transformation and *consequently* also a political one. In the view of its champions and its opponents alike, this interpretation needed to prove that both material reproduction and forms of rule before the Revolution were still dominated by feudal forms. 'Feudalism', in this context, was broadly interpreted (extending for example

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<sup>135</sup> Brenner 1976, p. 68 & passim.



to the purchase of landed property by bourgeois and newly ennobled). At all events, according to this interpretation, the Revolution was a confrontation between a feudal-aristocratic class and an alliance of oppressed classes that was dominated by the bourgeoisie. The opponents of this Marxist interpretation (most clearly formulated by Albert Soboul), grouped under the rubric of 'revisionists', maintained that feudalism had disappeared long before the Revolution, and that the Revolution, far from accelerating capitalist development, actually interrupted it. There was no social need for the Revolution, which rather arose accidentally from a situation of political crisis.

The bitter dispute between these two orientations covers a surprising agreement in certain theoretical assumptions. In both interpretations, the Revolution is assessed in respect to its social-structural preconditions, and in both cases, focus is on the relationship between social-structural (especially economic) basis and form of rule, implying a separation between economic and political spheres; finally, they also share the common assumption that the structures of material reproduction must be described either as capitalist, as feudal, or as a transitional form understood as a mixture of the two.

Successful revisionist criticism of the thesis of a persistence of feudalism through to the Revolution, and the analytically unsatisfactory notion of a 'transition', were the points of departure for structuralist improvements of the social interpretation, developed especially by Régine Robin. This author based herself on the concept of 'diachrony' developed by Louis Althusser and Etienne Balibar. In this conception, a transitional social formation involves non-correspondences [*décalages*] between the various instances of a society. This is explained by a double reference to the structure of two modes of production, or to put it another way, by the articulation of two modes of production. The advantage of this concept lay in the possibility it offered to integrate all those research results that contradicted the traditional Marxist interpretation of the society of the *ancien régime*. The impression could thus be given that the new orientation in a certain sense combined the advantages of both revisionist and Marxist schools, for, whilst it remained undoubtedly superior to the revisionist historians in its structural-analytic systematisation, it accepted, on the other hand, the criticism of the view that the nobility were the bearer of a feudal mode of production, and the bourgeoisie the bearer of a still oppressed capitalist mode of production. On closer examination, however, the theoretical gain is somewhat limited. The concept of social formation as an articula-

tion of one or more modes of production does indeed permit a classification of research results, but, since this conceptual apparatus is purely descriptive, it does not itself contain any theory of the developmental dynamic of a specific social formation that goes beyond the traditional teleology in which capitalism follows from feudalism. This criticism is confirmed by the fact that no explanation is even given of how and why capitalist relations of exploitation should arise in a non-capitalist world – at first in isolation, but eventually coming to prevail over feudal relations. Instead of this, the articulation of a capitalist mode of production – i.e. of an established structural context – is projected back into a precapitalist society.

To sum up, in the scholarly discussion of the last few decades, the ‘social interpretation’ of the French Revolution as a watershed between two modes of production, and as a class struggle in which ‘bourgeoisie’ and ‘nobles’ faced each other in opposing *class* camps, was criticised, but no new explanation of the Revolution developed. The revisionist school was not just concerned to rebut the *necessity* of the Revolution, it refused even to analyse the structural preconditions for its *possibility*. In this connection, the question of the *structural context* of material reproduction under the *ancien régime* has once more come onto the agenda. This analysis however lies outside the scope of the work presented here.

In the following section, we shall only be able to explain some particular structural features. These will serve to make clear that the developmental dynamic of the ‘economy’ of the French *ancien régime* can only be grasped theoretically if it is borne in mind that the organisation of appropriation was an element of the generalised rule, in other words, that the traditionally separation of research areas into economic and political history necessarily overlooks the structural dynamic of material reproduction under the *ancien régime*.

The social form of appropriation under the *ancien régime* was distinguished from both feudalism and capitalism by the structural feature of privilege. Privileges were opportunities for provision and enrichment that were sanctioned by power, rights that represented a particular kind of private property. The structure of privileges arose from the generalisation of personal rule. Since generalised rule enabled customary rights to be validated at law, and sanctioned *within definite limits* the power of the lords, especially in the forms of seigneurial rule and church rule, it transformed the varied results of long

social conflicts – such as the right to glean on the lords' harvested land, the right to a milling monopoly or the favourable position of guild members – into privileges that could potentially be protected by the same legal and 'police' measures as could the privileges of merchant companies or office-holders that were directly institutionalised by the generalised rule. Since relevant elements of appropriation were integrated in this way into the structures of generalised rule (what we would today call 'public' power), conflicts over the extent and forms of appropriation took the form of conflicts over the scope and modality of rule.

It is in this sense that I differ from the view of George C. Comninel, though I would agree with him that the structures of material reproduction before the French Revolution were neither feudal nor capitalist, nor a mixture of the two. Comninel sees the prevailing situation as an economy of owners of land and office, but, while this rightly indicates the importance of private participation in the results of centralised appropriation, it means that he sees the connection between 'economy' and 'state' as simply a material one. This overlooks the fact that the conditions for the constitution of interests were different so long as appropriation strategies appeared above all as struggles over rights. If the number of legal disputes concerning labour relations and conditions of peasant production fell dramatically after the Revolution, this not only signalled a change in the *form* conflicts took, but also a change in the conditions for the formulation and pursuit of demands. Conflicts that were waged over the extent and form of rule, and, in doubtful cases, were legitimised by the king through courts that he appointed, were not simply class struggles in a different guise. In this legalised structure of appropriation, it was not possessors of means of production and possessors of the commodity labour-power who confronted each other, but rather contending parties who disposed of differing rights. Michael Sonenscher has made this distinction especially clear.<sup>136</sup> In his thesis, labour relations were structured by the rights of those involved in them, and not simply by the materially determined subjection of the economically dependent. When journeymen carpenters claimed the right to keep for themselves off-cuts of wood that were left by the production process, when a master insisted on the customary right that an apprentice living in his household had to open the door in the morning for the journeymen living outside,

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<sup>136</sup> Sonenscher 1989.

when the peasants of a village claimed they had always had the right to graze their livestock on a meadow after the first cropping of hay, when journeymen demanded to be addressed in the polite form, and sailors refused to remain on board ship for a longer voyage than had initially been agreed, they insisted in all these cases on a 'public' regulation of their conditions of work and life that was either laid down in writing or founded in custom. The power of sanctioning this regulation lay in the last instance with the crown. Arrangements were made even for exceptional cases, for instance when it was established that harvest workers were to be proceeded against summarily if they ganged up to demand higher wages.<sup>137</sup>

Whilst in capitalist societies – as we shall return to below –, the conclusion of a labour contract means that power of command over the owner of labour-power devolves on its purchaser (within historically won limits) for an agreed duration, under the *ancien régime* workers maintained certain rights over the production process and over the organisation of their services. (These rights varied in different cases, according to whether they involved domestic servants, workers on the land, journeymen hired for a shorter or longer term, apprentices or other employees.)

Customary rights of this kind – which had a counterpart in collective village rights vis-à-vis the possessors of land – had a particular structural importance in France, inasmuch as the generalisation of royal rule in the form of legal power, and the fiscal interest of the crown in the regulation of guilds, led to a situation in which both individual aspects of the organisation of labour processes, and individual aspects of disposal over land, were regulated by the courts. Legal recognition of local custom made this in a certain sense into a component of the structures of generalised rule. There were indeed certain areas – for example the regulation of leases to be paid in money or a share of the product – in which those materially dependent had scarcely managed to win any customary rights that were legally protected as a specific form of property, but it was generally the case that 'economic' relations were between the owners of different rights.

Judicial instances such as *seigneurie*, (church) parishes, guilds and municipal authorities could all be drawn into the regulation of the specific course of production, as could the *intendants*, the courts of *baillage* or a *parlement*. If,

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<sup>137</sup> Sonenscher 1989, p. 71.

for example, weather conditions led the possessors of meadows to fear they would be deprived of income if they could not mow a second time, they could – among other things – apply to the *intendant* for permission to refuse the customary right to common grazing after the first hay-making. A particular customary right for such emergency situations thus arose on a regional basis, restricting the refusal of common grazing to a third of the meadow area.<sup>138</sup>

A reference to certain conflicts of the revolutionary years will make clear the relevance of the structures of privilege under consideration here. In the view of the possessors of land, it was not only seigniorial rights that were abolished by the Revolution, but all customary rights as well; the (poorer) peasants, on the other hand, struggled for their collective rights to be maintained. In actual fact, customary rights lost their sanctioning by power with the demise of the generalised rule of the *ancien régime*. If they were to be preserved, they had in a certain sense to be newly acquired: as state-sanctioned restrictions on a right of disposal over private property (or possession) that was in principle unlimited after the Revolution.

Under the established *ancien régime*, the penetration of capitalist labour relations presupposed not simply the expropriation of means of production, but also the expropriation of rights. If these rights were protected by the king's courts – and, in the second half of the eighteenth century in particular, this happened even against the crown's deliberate strategy – then the power of these courts limited the unhindered use of private property for private economic purposes, even if this could not always be completely prevented. To avoid one misunderstanding, the fact that, under the *ancien régime*, a large part (though not all) of those social relations that we describe today as class relations involved a confrontation between owners of rights (or privileges), did not necessarily mean that these relations were for this reason less exploitative and more humane. The point to establish in the present context is the specific structure of material reproduction, and the demands, conflicts and developmental conditions that arise from this structure.

Because the conditions of reproduction and appropriation were necessarily perceived in the first place as social relations determined by different rights, and because legal decisions actually were a regular feature of these relations, mentalities oriented towards the courts were comparatively widespread. The

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<sup>138</sup> Jones 1988, p. 134.

fact that, in the eighteenth century, resistance to the infringement of traditional rights – such as the privilege of being invited to eat on high feast days, which journeymen insisted on vis-à-vis their masters – was often voiced in such terms as ‘we are not slaves’, is seen by Michael Sonenscher as the result of a spreading conception of natural rights. This did not mean a new legitimisation of unimpeded acquisitiveness, but, on the contrary, the generalisation of the view that all French men and women (but not slaves, who outside of France were the property of Frenchmen) enjoyed certain natural rights. If these were not obstructed by legitimate power, they could be invoked before the courts. In the eighteenth century, Sonenscher concludes, the legal principle was successfully established, not only in respect to work *en jurande*, but also in respect to seigneurial rule, according to which possession of a particular right, i.e. a privilege, had to be demonstrated either by documentation or by long-established custom. If this could not be done, then the contending parties could invoke their natural rights.<sup>139</sup> The maxim *nul privilège sans titre* summed up not just philosophic conceptions, but also social developments. The appeal courts continued to sanction privileges, but by accepting natural-rights arguments for the claims of those who enjoyed only few privileges, they established themselves as institutions of a generalised instance of public order. These conclusions of Sonenscher do not necessarily contradict the established view that in the eighteenth century it was especially the *parlements*, whose members were almost all themselves owners of seigneurial rights, that bitterly defended the persistence of *seigneurie* (whereas the king’s courts had formerly served to limit this power). For the defence of existing rights is perfectly compatible with stricter demands for the proof of titles to property in these rights.

Under the *ancien régime*, privileges were not just for the rich and eminent. They were, as Olwen H. Hufton<sup>140</sup> stresses, the contemporary form of an *ordering* of society. This ordering embraced the majority of the king’s subjects. Even local beggars had the invaluable privilege of being allowed to beg in public places without having to fear being branded or sent to the galleys. The sphere of absolute non-privilege began only with the conditions of those wretches

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<sup>139</sup> Sonenscher 1989, p. 52.

<sup>140</sup> Hufton 1980, Chapter 2.

who roamed around as vagabonds or had already been legally condemned as criminals.

Privileges were always the property of persons or precisely defined groups. Sometimes, though not always, these privileged groups were legally fixed corporations (members of a university, a court, a guild, etc.). Many of the most profitable privileges, such as seigneurial rights and above all the privilege to levy taxes on the basis of exercising an office in the service of the crown, could be bought for money. This did not, however, mean that access to this market in privileges was open to all and sundry. After the legal recognition of privilege as property, the social limitation of the market in privilege is the second feature of the unity of the organisation of power and appropriation under the *ancien régime*. In practice, formal selection frameworks – such as particular qualification requirements for guild masters or judges – were of secondary importance. The really decisive restriction lay in access to the key structures of patronage. No one could make a career under the *ancien régime* as an isolated individual: neither in the sphere of royal office, nor in the guilds, and not even trading in cloth or corn. A key example given by Michael Sonenscher makes clear how the decisive obstacle to access to the privileges of a guild master in a large town lay not in the level of entry fee that was demanded, but rather in the requirement of marrying into one of the local masters' families (not necessarily in the same guild). It was only in this way that a candidate could prove himself a man with connections, credit, and an already vouched-for reputation. This favoured the sons of local guild masters far more than did the formal facilitation of access that sometimes existed.

Although many privileges were at least formally the property of individual persons, they were also the structural feature of a society in which the organisation of material reproduction was not the mere sum of connections between individuals. It was families rather than individuals who were the most important bearers of strategies of provisioning, enrichment and advance, with marriage continuing to serve as the most important form of appropriation. In the context of familial strategies of appropriation and advance, unmarried women often functioned as objects of trade. If married women were widowed, they reverted to this status, but not completely. For widows had a considerable power of disposal over the business pursued with their assets, with the status of their family and their personal appeal. There were also certain privileges that they inherited. We have already noted how Daniel Dessert came across

many *financières* of the king in his research, speculating in the state debt; these were generally widows. It is well known how in many guilds, widows could be managers with legal competence [*jurandes*], and James B. Collins indicates that regularly between 10 and 20 per cent of the household heads appearing in village tax rolls were women. Unmarried women are generally found at the end of these documents, i.e. among the poor who had only small incomes to declare, but widows appear also in the upper reaches.<sup>141</sup> Even if many of these were mothers who only ran their household until the eldest son was in a position to take over, they still differed in the use that the family made of its collective privileges. There were many forms of property from which women were excluded – a judge could never leave his office to a daughter – but there were other forms of property and particular privileges that were open to women, in so far as their family situation made this possible. In a certain sense, the individualisation of material connections was a structural precondition for the strict legal disadvantaging of women, and for the concept of order that ascribed women to the non-public space of the ‘private’ as their appropriate sphere.

In the following section, we shall not deal with particular privileges, rather with those complexes of privilege that were especially important for the development of material reproduction. The first of these complexes involved *seigneurial rulership rights*. Under the developed *ancien régime*, a considerable part of the appropriation by possessors of land resulted from simple economic power: from the possibility of raising rents according to rising demand (rents practically doubled almost everywhere in the course of the eighteenth century),<sup>142</sup> and not increasing wages in accordance with the rising demand for labour-power, even though bread prices also rose. At the same time, however, almost all rural inhabitants, even those who had only a small plot or a vegetable garden to call their own, were subject to an exploitation in one form or another resulting from seigneurial privilege, no matter that this varied very greatly between regions. They had to pay a fee if they wanted to record a contract, they were excluded from hunting yet had to accept the damage that seigneurial hunters did to their land, they had to take their corn to the seigneurial mill and their ale to the seigneurial brewery, and much more besides.

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<sup>141</sup> Collins 1988, p. 14.

<sup>142</sup> Cf. *Hist. Éc. et Soc. de la France*, Volume 2, 1970, p. 455.



As against the view propagated by revisionist historians, there continued to be substantial direct extraction from the results of peasant production: above all in the form of shares of the harvest and established dues. Together with church tithes, which were also leased out in the eighteenth century just like the more lucrative seigneurial privileges (not seldom to better-off peasants, who were often also large tenants of the *seigneurs*), deductions of this kind could amount in some regions to a good fifth of the total yield, with taxes on top of this.<sup>143</sup>

During the course of the *ancien régime*, the less profitable seigneurial privileges were in many places neglected and eventually 'forgotten', but it seems as if at least in some regions, the more lucrative ones were exploited rather more systematically than before. By the middle of the eighteenth century, this practice coincided with strategies that aimed to brush aside or at least curtail the collective rights of the peasants. These strategies were supported by the government, and in some cases also by the courts. The division of common land was permitted, enclosures were allowed, and the right to graze livestock on unenclosed meadows was restricted. In other words, the basis for the provision of small peasant families, which had depended on the possibility of keeping livestock, was narrowed – especially in areas of *petite culture*, where *métayage* or sharecropping was a common practice. For the very poorest, the *haricotiers* or however they were locally described, strategies of this kind destroyed the foundations of their material existence. From the mid-eighteenth century, there were resistance actions against field consolidation and enclosures. These were directed against the possessors of large holdings, including tenant farmers, who sought to take advantage of the high agricultural prices of the time. To this end, many lords began to have previously tenanted land cultivated by managers, thus constricting still further the supply of land for tenancy, while others systematically sought a monetary profit from their seigneurial privileges, or obtained government support for the clearing or draining of land. In the Franche-Comté, however, where seigneurial rule was most oppressive and peasants still continued to pay the *mainmorte* (meaning that the *mainmortable* had no hereditary claim on a holding), rent-paying peasants were to a certain extent protected from the effects of these commer-

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<sup>143</sup> Jones 1988, pp. 46, 96.

cialisation strategies – since unlike small tenants unable to pay they could not be driven from their land.

If peasants, smallholders, rural artisans, farmworkers and servants came to see *seigneurie* as responsible for their distress, in the second half of the eighteenth century and especially in the years of revolution, they understandably summed up in this single concept both old oppressions and new ones, the monopoly of land and the other protected rights of the lords.<sup>144</sup> With the historian's hindsight, however, we can maintain that if the reproduction conditions of many dramatically deteriorated, this was because collective peasant usufruct was in danger of losing its character as a privilege. There were two reasons for this danger: firstly the interest that the landlords had, along with their managers and the better-off peasants, in the efficiency of agricultural production, and secondly, the government's particular policy of public order. In the eighteenth century, the extension of the cultivated area increased the amount of agricultural production, especially the harvest of wheat, but this increase was not sufficient to secure the provisioning of the urban population, or even of the small and smallest peasant families in the regions of *petite culture*, who themselves had to buy bread – especially in times of bad harvest. Riots against price increases were endemic, as was vagabondage, and repression remained the dominant policy against these disturbances to order. From the mid-eighteenth century on, high government officials tried time and again to implement measures designed to promote agricultural production. They were influenced in these by contemporary debates on agrarian questions, and the view of the so-called physiocrats. They sought in particular the partition of common land, the expansion of private disposal over land holdings and the abolition of export bans on wheat. In this way they expected to turn to advantage the acquisitiveness of landholders and increase overall productivity in the long run. Objections were raised against these strategies. Town assemblies, *parlements* and *intendants* generally weakened government decisions in their various fields of competence. But that collective rights did on the whole lose something of their protection is shown by the fact that the years of revolution saw struggles in many places for the retention – more accurately, the restoration – of these rights. In so far as this actually happened, the preconditions for the further persistence of a structure of small and very

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<sup>144</sup> According to Heuvel 1982, Chapter 4.

small peasant production were created. For a long time into the nineteenth century, this structure continued to act as a kind of protective barrier against strategies aiming to establish capitalist relations in the rural economy. The employment of day-labourers, Comninel rightly emphasises,<sup>145</sup> was already as common in the fourteenth century as in the nineteenth, and is no indication of capitalism.

Just as with appropriation structures in the rural economy, structural analysis must also differentiate, in respect to appropriation from office property, between the acquisition of a property that yields a rent (in the form of a more or less regular income), and the privilege of office holders to enrich themselves by charging for their services, not to speak of the income that was described at the time as *pot-de-vin* and was also seen as quite legitimate within certain limits. Just like seigneurial rule, office power under the *ancien régime* was not simply a source of income, but also a demonstrative form of confirmation or acquisition of a social status, and a basis for patronage strategies. Owners of relevant offices under the developed *ancien régime* (especially in the eighteenth century) were in the main also owners of seigneurial privileges, they drew rental income from urban land and dwellings, and if they were lucky also interest on state loans. Irrespective of whether the crown – as described above – forced its office-holders to give it credit, whether the investment in office was materially rewarding or not, the immense expansion of *relatively* secure, profitable and above all status-endowing form of office property from the seventeenth century meant the favouring by power of specific investment practices. Even if office property turned out to be less lucrative at certain periods or for certain individuals – as a result of the increasing number of offices, the crown's failure to pay, or forced loans –, those who had to pay taxes and fees were still fleeced, and on an increasing scale. The more economically rational the behaviour of the owners of office power, the more severe was the burden of exploitation they imposed on the productive strata of the population. Quite contrary to the formerly widespread view, the 'apparatus' of the 'absolutist' state in France was in no way a vehicle of economic development, but rather an instance for organising the destruction of people and the results of production in wars, and an organisation, moreover, in which a large num-

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<sup>145</sup> Comninel 1987, pp. 185–8.

ber of individuals had the privilege of using the means of centralised power for the purpose of their own private enrichment.

The privileges of trade, manufacture and guilds also sanctioned opportunities of appropriation by their restriction of competition. The effect of these privileges, however, was dependent on market conditions to a far greater extent than was the case with seigneurial privileges and those privileges resulting from office. This can be seen, conversely as it were, from the fate of the programmes initiated by Sully under Henri IV, and later in particular by Colbert under Louis XIV. Colbert organised the foundation of manufacturing enterprises and granted them loans, subsidies and privileges, but most of these enterprises failed once the subsidies ended. He established trading companies for the exploitation of the colonies, and when not enough shareholders could be found, he ordered 'officials' of the king to buy shares. He granted a premium to shipyards for every ship they built, in order to expand the merchant fleet. He also established a legal framework, the so-called *exclusif*, designed just like the English Navigation Acts to protect trade with French colonies and the trade between them that arose from this against foreign competition. In the seventeenth century these measures all failed. It was only when the long wars of Louis XIV came to an end, and individual traders flourished, that a strengthened interest in the colonies and in intermediate trade was aroused. Trading companies that did not belong to the privileged corporations then increasingly became active in this trade. The crown took advantage of this development, and of contemporary demands for liberalisation, when it dissolved the Compagnie des Indes in 1769 and thus officially allowed colonial trade in the limits of the *exclusif*. This did not expand such trade, but put an end to the distinction between legal and illegal dealings.

The fact that the most impressive economic development in the eighteenth century was in the field of overseas trade is already a clear indication of the level of development of production. The economic dominance of trade always means a comparatively low level of development of manufacturing production – a fact that is easily overlooked by revisionist authors. France was an agricultural country. As against earlier assumptions, though agricultural production in the eighteenth century was extended by methods customary for many centuries, its productivity was not on the whole increased. The basis for the real though restricted development of manufacturing production was the systematic – and intensified – exploitation of labour-power. It is true that

historians today are no longer so haunted by the wage-price scissors of the eighteenth century as their predecessors, since it has become apparent that though the trends in bread prices and official wages are clear, those in actual wages are not necessarily so, it remains uncontested that real wages fell. This affected not only workers in the towns, but all those who had to work for wages either permanently or temporarily on the land.

Eighteenth-century France did see a growth in mining and manufacturing, the latter especially in the textile industry. A considerable part of this expansion resulted from the practice of 'putting out', which was finally legalised in 1762. If the growth in manufacturing remained limited, this was above all because the great majority of workers in France obstinately defended their existence as peasants as best they could, and because the extent and forms of extracting 'surplus' product socially restricted the market for manufactures. The effect of guild privileges should be analysed within these underlying conditions.

What we are focusing on here are those privileges that were guaranteed by the crown. The transformation of artisan associations into guilds regulated by the king arose out of fiscal requirements. As far back as 1581, Henri III had decreed the extension of the Paris guild regulations to the entire kingdom. Guild courts were to be established, with officials [*jurandes*] registering the local masters and devising appropriate arrangements for their certification. Examinations for barbers, apothecaries and surgeons were also established at this time, and it was laid down that every official deed had to be paid for. Most towns reacted with passive resistance, others reported that if the regulations were put into effect, disturbances could hardly be avoided. In Lyon it was confirmed that within the town's walls freedom of trade would continue. It was only in Provence that the prescriptions were to a certain extent obeyed. The edict was successful only with respect to the introduction of examinations for surgeons and barbers, the latter functioning at this time also as medical practitioners. Periods of apprenticeship were also prescribed. It was only in the second half of the seventeenth century, after the appointment of *intendants* in the provinces, that corporate arrangements for labour were successfully integrated into the structure of royal rule. Besides guaranteeing their privileges vis-à-vis potential competitors and establishing internal jurisdiction, the guilds also obtained the right to collect taxes and determine the allocation of the tax burden. The crown profited from the sale of office power, from the

existence of additional local instances of order, and above all from the credits that the guilds granted it, more or less willingly.

Whilst researchers formerly saw the guilds as institutions that acted to delay technical innovation and change in the organisation of production, the extent of this effect is today seen as rather limited. This is first of all because the guild regulations, despite all prescription, were applied very differently at a local level. In many towns, for example, hardly any *jurandes* were appointed. In others there were few guild privileges to defend, since the situation in the prevailing branch of manufacture was such that even guild masters could scarcely escape poverty. In Bayeux, for example, where the most important manufacture was that of stockings, this failed to recover from the great crisis of 1740, and new methods of production could not be introduced for lack of capital, so that the price for a master's certificate fell in the second half of the century to 50 *livres*.<sup>146</sup>

Where guilds were active, they functioned towards the end of the *ancien régime* as organisations which could deal with conjunctural and long-term changes in market conditions in the context of traditional ordering structures sanctioned by generalised rule. The internal structure of the guilds was marked not by a general solidarity of the masters against the threat of competition from artisans not in the guild, but rather by conflicts (sometimes violent) and processes of concentration in the course of which the less favoured masters became economically dependent on the better-off ones. There are reports of internal factions. Conflicts frequently arose from different ideas on how to relate to new technical procedures, or to the practice of concluding subcontracts (and in this way circumventing the limitation on the number of journeymen). The same period also saw defence strategies. Until the abolition of guilds, the officials [*jurandes*] had the right to levy fines on *faux ouvriers* [non-guild artisans], or apply for a *lettre royale* to throw them into prison. The penalty deemed most severe was permanent expulsion from the guild. In actual fact, most artisans under the *ancien régime* were not guildsmen, but since the majority of these lived and worked in villages, they did not fall under the authority of the guilds. The term *faux ouvrier* was not applied to them, but to journeymen who produced independently in the towns without

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<sup>146</sup> Hufton 1967, Chapter 1.

belonging to their guild. Unless they were employed in monasteries, or the households of great lords, they worked as far as possible in secret, in attics or back rooms (hence the term *chambrelans* that was used for them in many places). Steven Kaplan has shown from the example of the *faux ouvriers* of Faubourg Saint-Antoine how the concrete relationship between guild and non-guild artisans cannot simply be ascertained from the guild regulations. The Paris faubourgs had traditionally remained outside the jurisdiction of the *jurandes*. When guilds sought in the course of the eighteenth century to extend their jurisdiction to the centre of independent production outside the city walls, the artisans there bitterly defended their freedoms. These conflicts fit into the traditional picture and do not need depiction here. What is new, as Kaplan establishes, is how from the middle of the century, a series of guild masters concluded subcontracts with the suburban workshops in which they acted partly as putters-out. They made use of the fact that the division of labour outside the guild regulations facilitated the employment of new methods of production.<sup>147</sup> These economic connections thus overcame tendencies to rigidity that were present in the legalised work organisation of the guilds. This did not make the guilds weaker, but actually gave new strength to their economic position.

Under the *ancien-régime* system of rule, however, the guilds also had a firm place as creditors of the crown and pillar of a hierarchical order structured by privilege. This was apparent when Turgot sought to abolish the guilds in 1776. In the preamble that the minister formulated for the royal edict, he wrote:

All those familiar with economic life know that in every important enterprise of trade or manufacture two kinds of men collaborate: entrepreneurs who prepare the materials and equipment needed for the manufacture, and simple labourers who work for the former for an agreed wage. This is the real cause of the distinction between entrepreneurs or masters on the one hand, and workers or journeymen on the other. It is based on the nature of things, and does not depend on the arbitrary institution of the *jurandes*.<sup>148</sup>

The successful opposition to this proposed law evoked the importance of guilds for the order of the kingdom and their function as a bulwark against

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<sup>147</sup> Kaplan 1988, pp. 371 ff.

<sup>148</sup> Cited after Revel 1988, p. 296.

individual egoism and a decline in quality. The *parlement de Paris*, which took the lead in this opposition, defended in the guilds not only particular economic interests, but rather a whole order of regulation by power of working and social conditions.

When the guilds were finally abolished in 1791, this happened almost incidentally and without any notable objection. As Gail Bossenga has shown, however, in a quite remarkable essay on conditions in Lille, the local bearers of manufacturing and commercial enterprise were not all that enthusiastic about the new forms of organisation, but rather sought to maintain the existing arrangements, which were suited to their requirements. In one way or another, all recent research has confirmed that the strength of the guilds at the end of the *ancien régime* rested above all on the fact that there was no urban middle stratum that supposedly occupied the entrepreneurial starting posts and was obstructed by the guilds in the foundation of new enterprises or the expansion of existing ones.

A central structural change in the guilds is however to be noted: a certain individualisation of authority. Whilst the master's authority vis-à-vis his journeymen had previously resided rather in the corporation, or more exactly with the *jurandes*, government measures in the second half of the eighteenth century transferred this to a significant degree to the individual master. Until this time, political measures designed to maintain labour discipline and the appropriation privileges of masters had been limited to bans on associations of journeymen [*compagnonnages*]. In case of worker resistance, the actual or supposed leaders of these *compagnonnages* were prosecuted. In the 1770s, not only were associations of masters established beyond local limits (the guilds were not seen as such), to serve as a defence against worker resistance,<sup>149</sup> but regulations were also made for an individualised control of workers. The background to this was repeated strikes of journeymen and manufacturing workers, which now sometimes broke out in several towns simultaneously.

Whilst it had already been the practice for masters to demand from journeymen a document of release from their previous employment, from 1770 specific testimonial forms [*cartouches*] were given out, initially in particular branches of manufacture, in which adherence to workplace discipline was noted. In the *lettres patentes* of 12 September 1781 on the 'subordination of

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<sup>149</sup> Martin 1974, p. 64.



workers' (registered by the *parlement de Paris* on 8 January 1782), these regulations were generalised, since 'nothing helps manufactures flourish better than good order [*le bon ordre*] between manufacturers and workers'.<sup>150</sup> The general ban on associations was now supplemented by the systematic control of individuals. At the same time, the introduction of the workbook [*livret*] meant that the individual worker was no longer subordinated simply to the rule of the master and manufacturer, but expressly also to that of the 'state'.

Sonenscher reports a conflict that arose in connection with these new practices of rule.<sup>151</sup> When it was announced in August 1783 that the *maîtres constructeurs* [shipbuilders] should in future provide testimonies for the carpenters and labourers they employed, the majority of workers laid down their tools. A foreman later recalled that when he returned to shore the following day, another foreman and the ship's carpenter called out to him: 'Comment, vieux nègre, vous travaillez'. Insulting him as a black because he had continued working despite knowledge (as they wrongly supposed) of the new regulation, meant that they did not want to be made into slaves. The protests were summed up by the *jurandes* as follows:

The workers want to be free. They say that no one will ever compel them to work or force them to provide testimonials, for they are not designed to be publicly exhibited [*pour être affichés*].<sup>152</sup>

Last among the privileges of appropriation were the tax privileges of the First and Second Estates, the towns and certain corporations. The material significance of these is not easy to determine. It is incontestable, however, that despite growing indirect taxation, despite the introduction of the 'tenth' and later the 'twentieth' on income from landed property which were raised irrespective of the estate membership of the landowner in question, despite the clergy's 'voluntary donations' and the forced loans demanded from office holders that had often to be written off, villagers were taxed disproportionately highly. The *taille* fell almost exclusively on this stratum of the population. The general pattern is repeated in the tax rolls of the villages. Well-to-do peasants certainly bore the absolutely highest share, but relatively they were taxed less than the

<sup>150</sup> Isambert, Volume 27, nos. 1552, 1781.

<sup>151</sup> Sonenscher 1989, pp. 247 ff.

<sup>152</sup> Ibid.

poorer peasants.<sup>153</sup> The tax system not only financed the regular incomes of office-holders, pensions, and the profits that the king's creditors drew from the state debt, it also directly favoured those who had escaped from poverty. This was not always true in each individual case. Sometimes the owners of seigneuries were forced to contribute to the peasants' *taille*,<sup>154</sup> and in many cases the level of the *taille* set a limit to private extraction. The tax system did not work only directly, but also indirectly, as a system for redistributing the extracted 'surplus' product within the ruling estates.

We shall finally mention a very particular 'tax' privilege and the attempt to abolish it. The introduction of the *corvée*, a 'national' imposition on the peasants, was a measure of transport policy. It was practised from the 1680s, and in 1735 became an official law. This 'labour tax' provided for the engagement of the rural population in road building, for which they were drafted twice a year for a few days (generally around ten days per year). Workers were not supposed to be sent more than about 8 kilometres from home, and were to receive free food and transport costs. Peasant horses were also drafted. *Corvée* workers were to be used for earthworks, and the transport of stones and sand, i.e. all the rougher tasks. For the actual roadbuilding, the intention was that wage-workers would be used. In practice, the *corvée* affected all peasants living in the vicinity of construction plans. The 'national' labour obligation thus had not only a socially unequal effect, but a locally unequal one as well. The *corvée* saved on monetary taxation, but the *intendants*, who had to supervise the construction, and the specialists from the *Ecole des Ingénieurs des Ponts et Chaussées*, soon discovered that *corvée* workers were expensive, as they worked unwillingly, slowly and without care. In 1758, therefore, a choice between money tax and labour tax was introduced in lower Normandy, and this was soon followed in other regions. From 1762 to 1763 the labour duty was completely replaced by a money tax in Limoges, and Turgot, who was *intendant* in Limoges at the time, made this a general measure when he became controller of the king's finances. This however aroused violent protest, as the tax was demanded from everyone. The *parlement de Paris* argued, as we have already mentioned, that no more money could be demanded from

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<sup>153</sup> Collins 1988, p. 13 & *passim*.

<sup>154</sup> *Ibid.*

the peasants, but the basic objection was to the abolition of the previous tax privilege of the richer estates.

The conflicts over the *corvée* are significant in the present context in that this obligation was designed for one of the government's few actual development programmes. Since neither in the seventeenth nor the eighteenth century were there sufficient funds at hand for this key government 'function', this meant that production continued to be overwhelmingly local and regional in its orientation. A few *grandes routes* were indeed constructed in the seventeenth century. But only from the 1720s did mining entrepreneurs and manufacturers, who had relied until then on chiefly local outlets, start with increasing frequency to demand improved roadways. For a long while these demands did not meet with any notable success. An initial systematic measure was the legalisation of the *corvée*, a further measure was the establishment of a unitary administration (but not competent for all the *pays d'état*) and the training of specialists. It was only in the second half of the eighteenth century that even smaller places could be reached by wheeled vehicles. But since trade beyond a local level still remained limited, the roads frequently remained empty and were therefore often hardly maintained. Even these bad roads were usable for men and animals who carried their loads from place to place.

To sum up, those privileges of the ruling estates that were sanctioned by power continued to receive protection from the courts in the eighteenth century, if not in every case from the government itself. The privileges of the economically dependent, on the other hand, thus especially the collective usufruct of peasants and the rights of journeymen in the framework of guild organisation, increasingly lost their legal protection from the middle of the century.

#### *Reproduction of the ruling estates*

If we try to set a date to the transition between the phase in which the forms of rule of the French *ancien régime* established themselves, and the phase in which these forms were fully developed, we need to focus on the structural change in the nobility. With the *separation of the strata of nobility*, and the *formalisation of conditions of access*, the 'political' conditions for the reproduction of the ruling estates finally became structural features of generalised personal power. This connection between reproduction of the nobility and generalised

power will concern us in the present section. In other words, we shall focus on a tenth of the male and female population of France at the very most, including perhaps 2 per cent of the total population who were nobles of the First and Second Estate, and those who anticipated advance into the privileged estates for themselves or at least for their children.

Under the *ancien régime*, social advance at all levels of society required the adoption of new patterns of thought and conduct, and corresponding integration into the new estate that was aspired to. These conditions began with the simple transition from *roturier* to *bourgeois*. For in *ancien régime* France, *bourgeois* meant a person of leisure, and in accordance with the form of socially privileged sources of income that prevailed in France, the description *bourgeois* was largely reserved by contemporaries for urban rentiers. Georges Lefebvre proposed in his justly celebrated work *Les paysans du Nord pendant la Révolution française*,<sup>155</sup> that the well-to-do peasants of whom there were at this time two or three in each village made up a *bourgeoisie rurale* – along with the *notaires* and *avocats* who lived in the country. But a concept of this kind is far too oriented to a society in which material situation has already come to prevail as the most important criterion of distinction between different social strata. The *coqs du village*, if they cultivated their farms themselves, were still peasants in the prevailing view of the *ancien régime*. They may have stood at the peak of the peasantry, but they did not belong to the *bourgeoisie*, i.e. the aristocracy of the whole Third Estate. The *bourgeoisie* lived overwhelmingly from rents, thus in this respect already like the nobility. When contemporaries spoke of the *bourgeoisie*, what they meant was not something like the economic élite of the Third Estate, for merchants could be far more wealthy than office-holders, surgeons or scholars, and yet not automatically achieve social integration into the circle of those who considered themselves as *bourgeois* and thus something better.

In the provinces, the appellation *bourgeois* seems to have generally been applied to prosperous individuals who had retired from business. These often added to their name that of their country seat. At the end of the *ancien régime*, the *bourgeoisie* in many places, Chartres for example, lived overwhelmingly on the income from landed property. It was different in Paris, where the

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<sup>155</sup> Lefebvre 1959.

*bourgeoisie* was more a kind of caste, access to which was obtained, if not by birth, then rather by marriage than by the mere acquisition of money. Compared with the provincial bourgeoisie, the Parisians were less well off, and in the district of the Marais, for example, they drew 70 per cent of their income from rents and 30 per cent from offices.<sup>156</sup>

If the *bourgeoisie* of the *ancien régime* was very far from being the bearing group of a new economic form, there were conversely many entrepreneurial families among the rich and powerful nobility – something that revisionist historians never tire of pointing out. Since their social status was not assailable, and their horizon possibly somewhat wider than that of the *bourgeois*, who were eagerly set on fulfilling the demands of an aristocratic life in terms of their habitus, many nobles expanded their mining operations, established other manufactures, invested in colonial trade or modernised the administration of their estates. These are particular examples. On the whole, however, the nobility was characterised more by appropriation from the ownership of land and office, seigneurial rights, state loans and speculation on the state debt.

In order to make clear the structural change in the nobility, we should recall first of all that the French nobility until the sixteenth century had been a nobility of the sword [*noblesse d'épée*]. Even before the seventeenth century not all of the king's officers had been active militarily, but the notion of nobility contained the obligation to support the royal or princely lord in battle in time of need. It corresponded to this that the self-conception of the nobility could be summed up in the notion of honour. This traditional view of nobility was actually reinforced by the internal wars of the second half of the sixteenth century. In the establishment phase of the *ancien régime*, it also became characteristic of the nobility that ennoblement effected immediate admission into a unitary noble estate. The prestige of those who were ennobled by *lettre* may not have been as high as that of the offspring of famous noble lineages, but ennoblement did not just endow a 'nobility in waiting' but conferred genuine *gentillesse*. Conversely, gradual *de facto* ascent into the nobility by the way of so-called *tierce fois* was both common and accepted. If a family had acquired a seigneurie, lived a noble life and – assuming its origin was urban – had escaped the levy of the *franc-fief*, then after three generations it was counted

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<sup>156</sup> Vovelle and Roche 1965, pp. 25–37.

as noble and could claim the corporate privileges of the nobility. On the other hand, noble families who sank into poverty also lost in the course of time their noble status (cf. in particular Section a of this chapter).

All these structural characteristics underwent a change or abolition from the end of the sixteenth century. In other words, the basic structure of the nobility altered, its conditions of admission as well as the self-conception of the privileged estates. This structural change was both the result of generalised strategies of advance and defence, and the outcome of the royal exercise of rule. Differently from in England, the crown's power of definition over the highest ranks of the social hierarchy was very great, because a considerable part of the nobility's appropriation rested on its participation in centralised extraction, and fiscal privileges became decisive features of membership of the ruling estates. That the crown defined – or at least legalised – the limits that separated nobles from non-nobles or 'nobles in waiting', made access to nobility somewhat easier than in England, despite outward appearance and the previously prevailing view. For under the French *ancien régime*, the conditions for this access were imposed in large part by the crown's financial distress.

At the beginning of the seventeenth century, a second stratum of nobility arose in France: the *noblesse de robe*. Already before this time, as we have explained above, there had been purchase of office and social advance through ownership of office, and not all the king's officers were involved in war. But it was only with the introduction of the *paulette* (1604) and – above all – the numerical expansion of the power group of office-holders, that a distinct noble group was formed. The demand for property in office – an investment in social advance – was so great that the price of offices rose more than tenfold in the period from 1597 to 1635.<sup>157</sup>

As against the relationship of the English peerage to the gentry, that between the *noblesse d'épée* and the *noblesse de robe* was never characterised by a simple relation of superiority and inferiority, even if many members of the *noblesse d'épée* would have liked to see things in this way, and Saint-Simon, for example, even in the eighteenth century, could still describe powerful officials as 'presumptuous bourgeois'.<sup>158</sup> This situation arose first of all from the fact that the highest strata of the *noblesse de robe* possessed considerable power, a

<sup>157</sup> Chaunu 1977, Volume 1, pp. 200 ff.

<sup>158</sup> Saint-Simon 1985, Volume 4, p. 109.

circumstance that had to be taken into account by the *noblesse d'épée* whether they liked it or not; there was also the often considerable wealth of this stratum of nobility.

In the provinces above all, the higher strata of both sections of the nobility already began to converge in the first half of the seventeenth century. As Robert R. Harding has shown,<sup>159</sup> even for the first phase of regularisation of the tasks of the *intendants*, it is wrong to speak of a structural political – and social – opposition between *intendants* and the local *noblesse d'épée*. This applies to a far greater extent to the relationship of members of the royal courts to the local *noblesse d'épée*. Marriage between offspring of the two noble sections was seen in the seventeenth century, and sometimes still in the eighteenth, as a *mésalliance*. But the complaint against this evil already shows its widespread existence. Louis XIV, in any case a champion of traditional ideals of nobility, sought to counter it by supplementing the dowry of daughters from eminent old families of the *noblesse d'épée* where necessary from the royal treasury, so as to prevent marriage for money.<sup>160</sup> Despite pressing problems of appropriation, in the seventeenth century it was by and large only sons of the *noblesse d'épée* who married daughters of the *noblesse de robe*. In the eighteenth century, it was sometimes acceptable, but still not very common, to take a son-in-law from the 'robe'. In other respects, too, the barriers softened. On the one hand, very many families from the high *noblesse d'épée* were now represented in high offices (and not just in pure sinecures), while, on the other hand, there were an increasing number of families of the high *noblesse de robe* with family members in the officer corps. The 'four generations' condition for nobility, which was established first *de facto* and later also formally for access to an officer career, was fulfilled without difficulty by ever more families from the *noblesse de robe* in the course of the eighteenth century. Finally, even the practice of granting noble titles changed at this time. The award of a ducal dignity still assumed that the family already had a noble title, but Louis XIV's practice of generally granting *duchés* only to families whose nobility stretched back at least to the thirteenth century, ended with his death.<sup>161</sup> Yet the central criterion of social rank within the noble hierarchy remained the length of a family's nobility. To

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<sup>159</sup> In Malament (ed.) 1980, pp. 95–127.

<sup>160</sup> Mettam 1988, p. 63.

<sup>161</sup> Mettam 1988, p. 201.

this extent, the *noblesse d'épée* successfully defended their claim to precedence vis-à-vis the *noblesse de robe*. One thing was sure: there was not a single family of the *noblesse de robe* that could trace its noble status back to the thirteenth century – let alone the eleventh, which was deemed especially eminent. This superiority of a few families of the *noblesse d'épée* was particularly emphasised as a general characteristic by those who had no particular fame in the present. The claim to a principled precedence over the *noblesse de robe* that many of the older nobles maintained, corresponded to the fact that it was only the *noblesse de robe* to which access was now possible. In 1750, the possibility for officers to advance into the *noblesse d'épée* was established, but the conditions for this were so hard to fulfil that the structural principle remained unaffected.<sup>162</sup>

The internal hierarchy of the nobility was thus quite unchallenged in certain respects, while in others there were violent conflicts during the seventeenth and eighteenth centuries, taking rather different form in the provinces than in the spatial, social and political proximity to the king. At the top stood the princes of the blood, and those who were described along with these as *pairs*, enjoying special privileges distinct from the rest of the nobility – such as participation in important sessions of the *parlement de Paris*. Then followed the high *noblesse d'épée*. In 1582, Henri III had laid down the rank order of titles. But this order, still largely oriented to the size of the 'fiefs' that were seen at that time as the material basis of the noble rank in question,<sup>163</sup> was not binding, inasmuch as a very old family of simple *noblesse d'épée* took precedence over a family with a title. In the sixteenth century, it was sometimes possible to maintain with success that even members of the *grande robe* stood below the simple *noblesse d'épée* (though it would already have been inadvisable to insist on this view vis-à-vis the king's ministers or the presidents of the *parlements*). But the hierarchy of the *noblesse de robe* increasingly ascended in the course of the seventeenth and eighteenth centuries into ever higher ranks of the nobility. Right to the end of the *ancien régime*, members of the privileged estates, despite all the mingling of kinship and 'profession', distinguished between families of the 'robe' and of the 'sword', but when many of the latter had only the age of their families to set against the visible power of high officials and the less visible influence of financial nobles, their claims to precedence lost

<sup>162</sup> Corvisier 1976, p. 116.

<sup>163</sup> Labatut 1978, p. 59.



effectiveness. All the more so as an attribute of rank developed, for the top-most strata of both noble groups, that in a certain sense ran right across the traditional noble hierarchy: admission to court.

In 1732 such admission was, for the first time, formally restricted (a fact that immensely increased the importance of patronage, since persons who had still had access to court under Louis XIV were now forced to use intermediaries). In 1759–60, admission to court became a formally granted privilege. Only *ducs* and *pairs* were admitted as of right. The rest of the nobility could request this privilege only if their nobility reached back to at least the thirteenth century, likewise the descendants of members of the knightly orders. Beyond this, the king extended the privilege of admission as he saw fit. This was regularly the case for all ministers and certain other high officials, including – already from Louis XIV's day – tax-farmers. According to Labatut, after 1760 there were a total of 942 families who were admitted to court on the basis of their old nobility or the king's favour. Their wives, fiancées, sons and daughters would be formally presented at court.<sup>164</sup> François Bluche reports that in 1789, when even families of the *grande magistrature* were still scarcely admitted, there were only some 300 of these.<sup>165</sup>

The formalisation of membership of the court nobility made it still harder than before for sons of the lesser *noblesse d'épée* to rise beyond the rank of *colonel* in the military hierarchy,<sup>166</sup> as sons of the court nobility were already appointed lieutenants at a very young age. The group of *noblesse d'épée* who suffered most from the rise of the *noblesse de robe* were thus those families that lived on their estates in the provinces, had no town house in Paris, and could not afford either a large dowry or an expensive office for their children. There has still been very little research into this group, and even its precise extent is hardly known. It was formerly assumed that it made up some two-thirds of the *noblesse d'épée*, though the figure is now estimated at more like 40 per cent. It has been established in the meantime, however, that while there were some very poor families in this group of landed nobles, whose incomes were sometimes no more than those of the better-off peasants, most of them were not in such desperate straits as might be deduced from their constant complaints.

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<sup>164</sup> Labatut 1978, pp. 58 ff.

<sup>165</sup> Bluche 1973, p. 12.

<sup>166</sup> Corvisier 1976, p. 182.

What is incontestable is that it was this group above all who most needed the formalised protection of their privileges in the army vis-à-vis officer candidates from ennobled families or mere *bourgeois*. According to Henri Carré, many sons of the less well-off *noblesse d'épée* sought alternative opportunities of appropriation and advance in the course of the eighteenth century. They travelled to the colonies, acquired properties there and remained as planters even after their retirement from the army. In Santo Domingo, the proportion of nobles in the white ruling stratum is thought to have been considerable.<sup>167</sup>

The second of the structural changes referred to above involved the conditions of advance into the nobility. This process was now regulated by power more than previously. The start of this practice can be dated from the abolition of the above-mentioned *tierce fois* by the *ordonnance de Blois* in 1579. This did not prevent the families of prosperous townsmen or farmers from gradually ennobling themselves, but it did make it illegal. Because the amount of *taille* that a village had to pay was not diminished if certain families acquired fiscal privileges, this meant that direct taxes were drastically increased from the 1620s on, and the silent rise into the nobility made immensely more difficult by the local protest of those who were still *taillable*. In this point, the interests of the taxpayers coincided with the interest of the crown in maintaining its tax basis, and with the demands of the nobility to restrict access.

The expansion of access to nobility through office coincided with the abolition of the *tierce fois*. According to Necker, by the end of the *ancien régime* 4,000 offices had been given out that ennobled owners who did not already belong to the nobility. These offices included for example those of the presidents of the *parlements* and the municipal offices in Paris, Lyon and Toulouse. (All other towns had already lost their corresponding privileges before 1660.) The majority of these offices did not immediately ennoble their owners, but gave them the status of nobility in waiting. Members of this group profited from the fiscal and legal privileges of the nobility, but they could not demand to be treated socially as nobles. The general view was that this required a waiting time of two (later, three) generations. There was a formal exemption from this requirement. From 1704 (a year of particular financial distress for the crown, caused by war), purchase of the office of a secretary to the king gave immediate nobility. Necker counted 900 such positions at the end of the

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<sup>167</sup> Carré 1977, pp. 147 ff.

*ancien régime*. They cost at this time around 500,000 *livres*.<sup>168</sup> Those who, like many families involved in high finance, were concerned above all to achieve noble status, generally sold on this property as soon as it had fulfilled its purpose for them. But the secretarial positions were also the point of departure for a career as minister or *intendant*, and were thus not purchased simply by rich non-nobles. Many nobles in search of a career only managed to acquire a secretarial position after they had succeeded in making a materially favourable matrimonial alliance. None the less, out of the 4,200 or so new accessions to these positions that there were altogether in the eighteenth century, some 3,200 secretaries had previously not been of noble rank – a fact that for many nobles was an indication that their status had been purchased.<sup>169</sup> The possibility of accession to nobility by the purchase of a secretarial office acquired all the more importance, the more strictly the ‘robinocracy’ closed its ranks against new incomers. As Bailey Stone has shown, access to the office of judge in the eighteenth-century *parlements*, for example, was only rarely possible for individuals who did not hail from one of the established families of the *noblesse de robe*.<sup>170</sup> Though the purchase of a secretarial office was not achievable without patronage, the price of these offices guaranteed a competitive advantage for the very rich. In this way, for instance, tax-farmers could acquire a position from which the all-important integration into the structures of patronage, and family connections with the established nobility, were more readily attainable.

This regulation of access to nobility was coupled with a regulation of relegation. Differently from the English case, in France all children inherited noble status from their father, and in the Franche-Comté and Champagne nobility could even be inherited from the mother.<sup>171</sup> Since the inheritance of ‘fiefs’ (on which a family’s title hung) followed the practice of primogeniture almost universally in France, the wealth of the eldest son in the main branch of a *lignage* was generally secured. But because nobility was inherited by all legal descendants, there were far fewer well-to-do nobles in France than in the English peerage, and even many who were quite poor. This was possible only because the increasing legal and fiscal fixing of the corporate privileges of a

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<sup>168</sup> Carré 1977, p. 42.

<sup>169</sup> *Ibid.*

<sup>170</sup> Stone 1986, pp. 28–45.

<sup>171</sup> Bush 1983, p. 137.

nobility of birth abolished the relegation from nobility due to poverty that had previously been the custom also in France. There remained relegation due to an inappropriate activity or practice of appropriation, which was also now legally regulated. Yet the reason for the decline of French noble families was not this *dérogance*, but rather the failure of biological reproduction. Certainly, work was inappropriate on principle, and even investment in productive and commercial undertakings only lost its stigmatising character if these were pursued on a grand scale (or outside the public eye). In practice, however, *dérogance* was hardly ever applied to working nobles – even those who ploughed their own land or engaged in petty trade. If this did happen, it was generally decided that the family's nobility would be temporarily suspended.

The third characteristic of the above-mentioned structural change was the transformation of the nobility's patterns of thought and behaviour. If their self-conception had been investigated, many of the *noblesse d'épée* would certainly have maintained that true nobility was proved by glorious participation in the king's wars. In practice, however, by the eighteenth century only one out of four male members of the *noblesse d'épée* had still been an active officer in the king's service, and many of these for an extraordinarily short time.<sup>172</sup> For those making a profession out of such service, criteria of professionalisation now overlay the traditional military ideals. The latter were transmitted more in the social obligation of men to defend their honour by duel if it was impugned. Since duels encroached on the crown's monopoly of armed force, they were many times strictly forbidden; Richelieu even ensured that a high-ranking dueller paid for his crime with his life. But the idea that honour had to be saved with sword or pistol was to outlast the *ancien régime*.

What is relevant in the present context is that irrespective of all the reciprocal tactics of demarcation, and even of actually persisting differences, from the seventeenth century certain behavioural ideals and patterns of thought were generalised through the entire nobility. Whilst those socially advancing adopted the code of *politesse* along with demonstrative material display, the ideal of civic virtue and the criterion of social usefulness found their way even into the *noblesse d'épée*. There was not the kind of moralisation of ruling power that became widespread in England – emanating from the Puritan gentry –, but in France too, the challenges of Protestantism and Jansenism were not

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<sup>172</sup> Corvisier 1976, p. 116.

without influence on the dominant pattern of legitimising rule. This change is visible earlier and more clearly in the provinces than for the Paris nobility and those at court. For the latter especially, the legitimising of their position was more or less completely decided by the king, which was why banishment from court was seen as a particularly severe penalty. But many other nobles were not affected by the new patterns of thought and behaviour; others changed their terminology but not their actual conduct.

This is also the context in which to note the participation of the nobility in the societies of the Enlightenment: the *académies* above all, but also the Masonic lodges. In the same way as the assumption that the generalisation of royal rule had to be achieved against the nobility does not stand up to examination, so assumptions about the bearing groups of the Enlightenment also need revision in the light of more detailed research. Members of the lower nobility were noted earlier on in this context, but it has recently become clear that it was rather bishops and prelates who dominated the *académies*, along with high members of both sections of the nobility. The *académies* were institutions the official internal structure of which paid no attention to distinctions of station, and which regularly established debates – and prize essays – on subjects that were seen as useful to humanity.

The *académies* arose as private circles that were then given official status (first of all by Richelieu), promoted by the crown and made into regular institutions. By and large, it can be said that until about 1760 members of the First and Second Estates were predominant among the (French) honorary members, while their corresponding members belonged in the main to the Third Estate.<sup>173</sup> 'This *académie* nobility,' wrote Roche,

was representative of the high aristocracy and the apex of the royal administration. The Paris notables and the aristocratic members formed a kind of club dominated by nobles introduced at court and a few great families in which *académie* membership was practically hereditary.... Alongside them in the Paris *académies* were an eminent group who often had less noble ancestors but possessed rather more knowledge: a genuine nobility of scholarship.<sup>174</sup>

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<sup>173</sup> Roche 1981, p. 95.

<sup>174</sup> Roche 1981, p. 94.

The dominance of the First and Second Estates was less pronounced in the Masonic lodges. But their social openness remained limited, being effective only in individual lodges. If there was only one lodge in a place, it was dominated by the local nobility, but if there were several, there was a kind of social specialisation, with Third Estate lodges alongside noble ones.

The mingling of estate, scholarship and talent that took place in the salons (with the participation of women) and the learned societies (from which women were excluded) is taken by many historians as proof of the increasing unimportance of estate structures: the establishment of a new *élite* that transcended estate boundaries. G. Chaussinand-Nogaret put forward the thesis that the cultural and social unity of the nobility and high bourgeoisie was a product of the *ancien régime*, and not, as generally assumed, a consequence of the Revolution,<sup>175</sup> whilst J.F. Bosher saw the most important social demarcation lines of the *ancien régime* in the distinction between town and country on the one hand, and between the 'populace' and the 'public' on the other – the latter best characterised as a unity of the educated classes. But Chaussinand-Nogaret could only maintain his thesis by drawing conclusions from particular examples, a procedure that Simon Schama exaggerated still further in taking over this writer's assessments and enriching them with particularly neat examples and anecdotes.<sup>176</sup> Bosher, for his part, undoubtedly hit on an important social dynamic of the developed *ancien régime*. Though the forms of association of the educated classes remained limited (the *académies* for example never had more than 6,000 members, and only 3,000 before the Revolution), and they in no way involved a dissolution of the social hierarchy, there was a marked increase in the circle of those who read books, periodicals and newspapers, and discussed what they had read in a smaller or larger milieu. At the same time, education more clearly than before became a *habitus*, assigning members of the lower orders to an inferior rank on account of their lack of it. Even in contemporary criticism of the nobility, the lack of education of many of its members was a common theme, along with their life of luxury and dissipation. Yet there are scant indications that the bourgeoisie of the *ancien régime* had come to see membership of the intellectual aristocracy as superior to ennoblement, nor is there evidence that sons of the

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<sup>175</sup> Chaussinand-Nogaret 1976.

<sup>176</sup> Schama 1989.

*noblesse de robe* would not have jumped for joy if they had managed to marry into the high ranks of the *noblesse d'épée*. As long as strategies of advance were oriented above all to the existing estate hierarchy, and only in the second place to wealth or scholarship, the estate barrier between the Third Estate and the nobility continued to have considerable structural significance for social processes.

The division into two large groups not only neglects the important internal differences, but also avoids dealing separately with the First Estate. In fact, the great lords of the church did not belong to the privileged estates in the eighteenth century simply by virtue of their power of office, but also because of their origin, and many of them laid greater value on the honour of stemming from a famous noble family than on that of filling a high office of the church. The lower clergy on the other hand, though they belonged to the First Estate, were hardly privileged in actual fact. Certainly, things were not so bad materially for most village clergy in the eighteenth century as might have been assumed from the speeches of their representatives in the National Assembly,<sup>177</sup> but in districts where their parishioners frequently went hungry, even priests as a rule could afford neither gluttony nor books. The improved theological training that was one of the strategies of the Counter-Reformation extended theological knowledge in the First Estate in the seventeenth and eighteenth centuries, but little else. In any case, members of this estate can be divided *grosso modo* into nobles and the dominated members of a privileged estate.

Estimates of how many nobles there were in France on the eve of the Revolution vary greatly. Some sources give a figure of 200,000, others count up to 400,000 members of the Second Estate. There are three main reasons for this difference. The first is sheer ignorance. Despite the many local and regional studies carried out in recent years, too little is known about the families of those landed nobles who cultivated a fairly substantial estate and enjoyed quite far-reaching seigniorial privileges, to make more than a rough estimate possible. A second reason is the different classification of the higher religious nobility. A third arises from diverging criteria of ennoblement. Historians who adopt the view of the established nobility under the *ancien régime*, count the ennobled in the Third rather than the Second Estate, whereas supporters of an

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<sup>177</sup> Reichardt 1977, p. 178.

interpretation of the Revolution as a class conflict incline rather to count both the ennobled and the non-noble owners of seigneuries as part of the nobility.

In the present context, it is not the extent of the nobility that is decisive; what matters more is that in the eighteenth century the summit of the hierarchy of possession was incontestably occupied by the nobility. This was true in agriculture, where before the Revolution from 20 to 25 per cent of the land was in the possession of noble families, and a further 10 per cent or so belonged to the church. This average can serve as a crude starting point, but the distribution varied extremely widely from one region to another.<sup>178</sup> Nobles profited most of all from centralised appropriation. Not only in Paris and the towns that had *parlements* or urban assemblies, but also in trading towns and ports, they stood at the top of the possessing hierarchy. The nobility were dominant in the ruling apparatus. They also led the development of urban culture. This was true above all in the south, where for centuries nobles had lived preponderantly in the towns, but it holds for the north as well, where in the seventeenth and eighteenth centuries nobles who could afford to do so lived mainly in town and visited their estates just to enjoy hunting and the respect of their underlings. If we also take the church into consideration, there was no major sphere of society that was not ruled by the nobility. This does not mean that there were not in the realms of economics, culture, urban life and religion, broad tendencies and firmly established positions of power belonging to non-noble strata, still less that many nobles were not materially and culturally influenced by non-nobles; simply that the positions of leadership under the developed *ancien régime* were in the possession of the nobility.

### *Good order*

In the following section, we shall elaborate the beginnings of a structural transformation in the light of particular examples. What is involved here, and I exaggerate for the sake of clarity, is the transition from royal rule to royal government. Until the seventeenth century, the practice of royal rule consisted in the fiscal, judicial and military integration of princely, seigneurial, urban and – to a limited extent – church rule into the structures of generalised royal power. Public-order policy meant in the first place avoiding disturbances to the established order, more specifically it aimed above all at preventing civil

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<sup>178</sup> Cf. Heuvel 1982, p. 43.



war, revolts, heretical religious tendencies and vagabondage, in other words it was a policy of negation. Secondly, the crown sanctioned locally established order, this being one of the conditions for the existence of its rule. This meant that the contents of good order were to a large extent marked by local conflicts. Because even the royal appeal jurisdiction remained integrated into this local (or regional) context, and even the commissioners of the royal government, the *intendants*, could scarcely escape this, this underlying structure of public-order policy remained in place until the end of the *ancien régime*. The royal government functioned as a sanctioning instance of public-order practices the content of which it did not determine.

The sanctioning of order for the sake of order is nowhere made more clear than in the fact that private individuals could serve relatively unproblematically as the instruments of generalised repressive power. By means of *lettres de cachet*, *jurandes* could lock up in prison artisans who did not belong to a guild, bishops could lock up disobedient priests, parents their rebellious children, wives their violent husbands or husbands their extravagant wives: all for the sake of their improvement. The government behaved similarly with obstinate judges, unruly followers of miracle-workers, or whomever they liked. If private individuals who did not, like the *jurandes*, possess legally established privileges for the use of the generalised repressive apparatus, resorted to the crown's instruments of compulsion, they had to bear the costs themselves. As Arlette Farge and Michel Foucault summarised their assessment of the files of the Châtelet in Paris, this was a 'government service provision' that was happily taken up.<sup>179</sup>

Louis XIV occasionally even intervened personally. He wrote to the Paris police chief in 1693, for example, after a man had complained to him of the adultery of his wife: 'I request you... to summon the woman and put her to rights; say that if she does not behave properly, I will have her locked up'.<sup>180</sup>

To obtain a *lettre de cachet*, a formal application had to be made, and witnesses or evidence produced. But there were no legal proceedings, and the determination of what was deemed as disobedience of children to their parents or of parish priests to their bishops, what counted as extravagance in

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<sup>179</sup> Farge and Foucault 1989, p. 20.

<sup>180</sup> Saint-Germain 1962, p. 115.

a married woman or as violence by a husband, lay in the judgement of the parties involved.

The government also made its services available for the protection of key family interests. Priests who married young people without the agreement of their parents were threatened with punishment. And young men who married above their station without the agreement of the bride's parents ran the danger of being accused of rape and sentenced to death. The saying that there is no marriage so firmly joined that a rope will not dissolve it, dates from this time.

Under the developed *ancien régime*, the instrumental character of generalised public-order policy that we have depicted remained in place; only the readiness to resolve family conflict with *lettres de cachet* gradually declined over time. At the same time, however, the crown found itself forced to accept changes in old-established arrangements, and to revise these in accordance with the needs of the time; in other words, to transform *rule* over its subjects into *government* of the relations in which they lived. This could be described as the beginnings of a social policy or policing. Processes were at work here that also operated in other societies of the *ancien-régime* type. The most important causes of these were the shake-up of church rule by the Reformation, along with the knowledge that the content and possible expansion of fiscal power could be promoted by regulatory practices. In the French case, it must particularly be stressed that the demand on the crown to overcome crises of local rule grew with the limitation of the competences of partial rule. If changes in public-order policy accelerated in the second half of the seventeenth century, this was not only the result of a comparative strengthening of generalised rule, but also an effect of the personality of Louis XIV. Just one example is needed to illustrate this here. The need to govern the religious practice of the king's subjects arose in all *ancien-régime* societies – on the basis of the confessionalising of princely rule. The crude determination with which Louis XIV set to work on this, however, sometimes even violating established principles of his own practice of rule, was not structurally determined. But, under the conditions of personal royal rule, this marked conflicts over the scope and forms of royal rule, and continued to do so after his death.

Important as the structural change from generalised rule to generalised government may seem in hindsight, its contemporary limitation must also be clearly stressed. As we have already made clear at several points, the intention

and reality of government strategies differed considerably, right down to the end of the *ancien régime*. At the same time, however, the demand of generalised regulation was also limited in a dual fashion. Even if J.F. Bosher's argument that there was no royal government in the villages at any time under the *ancien régime*, and strictly speaking no government at all,<sup>181</sup> seems a little exaggerated in view of the far-reaching structuring effect of fiscal power and the persistence of seigneurial privileges along with the effect of public-order strategies that are still to be described, there actually was little in the way of specific policy towards the lower orders in the countryside. This holds even for the specific institutions of urban life, if we abstract from the attribution and sanctioning of particular privileges, and regulations for preventing plague and of religious practice. It was only for Paris itself that the government, as we have shown above, claimed the power of defining the content of good order.

For this reason, the non-privileged estates and the poor people of Paris had a not inconsiderable role in the development of practices of rule. This was on the one hand because in the eighteenth century the *intendants* in the provinces very often took Parisian regulations as their model, or alternatively did not apply these if they had already proved inapplicable in the capital. On the other hand, questions of 'grand politics' in Paris were made into conflicts over local rule by the way that the common people were drawn into all these struggles – beginning with the Fronde, via the crown's policy against the Jansenists, through to the government's conflicts with the *parlement de Paris*. The applause and scornful laughter of 'the street' could not determine policy, given the personal structure of rule, but it was not without significance.

Thus if local public-order practice, with the exception of Paris, continued to remain to a considerable extent outside the power of definition of royal governments, these did however claim regulatory competences in this field, which had their effect on the local exercise of rule even if locally dominant forces refused to implement them. We shall now elaborate some key aspects of this generalised public-order policy, though this is only by way of example. These concerned certain material and intellectual shocks to good order, and aimed in a sense to determine behaviour in conformity with power in an age of undelayable structural change. The suppression of beggars, food policy, the struggle against heresy, and censorship, were all quite traditional fields of

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<sup>181</sup> Bosher 1989, p. 80.

rule. Under the developed *ancien régime*, however, they were re-interpreted as fields presenting tasks for *government*.

Social poverty only gave rise to strategies of rule if it led to taxes not being paid, revolts occurring, and a growing number of beggars roaming the land. With the growth of population in the late sixteenth century, and the simultaneous reinforcement of seigneurial rule, a situation arose that contemporaries described as a plague of beggars.

One particularly threatening aspect of the rise in begging was that discharged soldiers, with no prospect of gainful employment, did not show due subordination. Until the end of the *ancien régime*, the crown responded to these developments above all by criminalising the behaviour of the poor. Since many poor people looked for a livelihood in the capital, the regulations for Paris were particularly drastic right from the start. In 1532 it was decreed that able-bodied beggars were to be chained in pairs and employed in cleaning drains and sewers, in 1535 that all beggars who did not obey the call to leave the city were to be hanged. In 1543 and 1547 similar provisions were repeated.<sup>182</sup> Draconian measures of this kind were impossible to implement.

A century later, however, both the police in the capital and *intendants* in the provinces arrested beggars on an increased scale. The penalty of being sent to the galleys that had in the meantime been threatened for vagabondage was now applied in many cases. It was hoped that the navy could be built up in this way. When a start was made on the systematic exploitation of the colonies, under the regency during the minority of Louis XIV, men, women and sometimes even children were deported for trivial offences, such as the theft of a couple of cabbages.

In 1696, the order was given to return the indigent poor to their place of origin, which would be responsible for their maintenance. As against the situation in England, however, there were no administrative arrangements for such local provision. At the same time, the towns were instructed to build asylums and manage these themselves. (This was only implemented in exceptional cases, however.)

The eighteenth century saw a new phase of paedagogic approach to the poor. Programmes in this vein were developed by private individuals and continued by royal officials. In 1720, for example, it was decreed that the poor

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<sup>182</sup> 2nd report *Com. Mend.* 1790, ADXIV.

should be divided into those able and those unable to work. The able-bodied were to be accepted in the asylums only under conditions that would leave a lasting impression on these 'useless and shameful elements of the state'.<sup>183</sup> After deliberations that referred repeatedly to foreign experiences, in 1724 this question, 'which in all well-governed states is always seen as one of the most important', was addressed systematically and on a national scale.<sup>184</sup> All the asylums were placed under state supervision. Public financial assistance was provided for what were predominantly church institutions. It was decreed at the same time that anyone who failed to find work had themselves to apply for admission to an asylum. The inmates were to be employed either in the establishment itself, or on roadbuilding in groups of twenty. The obligation of 'voluntary application' did not change the fact that all inmates were initially to be taught a lesson. For the first two months they received only bread and water. If they still failed to find work after they were discharged, this punishment period would be extended the next time round. 'Recidivists' of this kind were to be reported to a central registry office in Paris, which would maintain lists of inmates. The *intendants* were charged with overseeing all these procedures, and making sure that in case of need, the surplus unemployed were transported to other asylums. Above all, they were to seek work.<sup>185</sup> The reality, however, was far less systematic. Not all beggars were arrested, nor were there sufficient asylums to lock them all up. The announcement of the new strategy was followed by a new round of inflation in 1725. The number of beggars grew, while the costs of their maintenance in the asylums rose together with the price of bread. The promise of support, as far as it went, soon met with a limit. The central information office scarcely functioned in any sense. From 1731, the law of 1724 was in practice no longer implemented, and in 1734 the release of able-bodied beggars was officially ordered. This did not however signal the end of the intention to lock away poverty.

In theory a clear distinction was made between hospitals [*hôtels de Dieu*], asylums [*hospitaux*] and prisons, and in 1734 the asylums were made responsible above all for foundlings, the aged, invalids and prostitutes. In practice, as Foucault demonstrated, it was more or less accidental whether someone

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<sup>183</sup> Isambert, Volume 21, no. 205, 23 March 1720.

<sup>184</sup> Bloch 1908, p. 53.

<sup>185</sup> *Ibid.*

ended up in prison, asylum or hospital. In most of the hospitals medical care was scarcely any more common than in asylums, and all establishments were equally unhygienic. Both types of institution, however, served as experimental grounds for medicine. This led to a great deal of progress in surgery, with surgeons operating on unanaesthetised patients in large rooms and in the presence of other sick people, trying out new procedures and perfecting established ones. This was how the great Paris hospital of the Santé soon acquired its reputation as the best in the world.

Work was allocated in both asylums and hospitals, and the price that these establishments received for their inmates' services was regularly below the going rate. Housekeeping rules were either strictly implemented or scarcely observed, according to the particular management, but they were strict almost everywhere. In many asylums the inmates were forced to live like monks and nuns, and address each other as sister and brother; almost all applied far-reaching rules of silence. In many, too, they took minor orders, whilst in others they had only to go to confession before high feast days.<sup>186</sup>

Of the many obstacles that stood in the way of a national realisation of this reform programme, we can mention only one here. Though town authorities and *intendants* were responsible for a more or less thorough supervision of all establishments for the poor, these continued to be run almost entirely by nuns. For many of these pious women, it was more important to be merciful and lead the poor to eternal bliss than to categorise them according to their potential usefulness to society and treat them accordingly. Though there were a growing number of churchmen in the eighteenth century (as we shall see below) who emphasised the utility of the church for society, it was the good fortune of the imprisoned poor that it still took a good while before the rigorous pedagogic habitus that such a subordination of the church to a secularly determined social utility towards the poor implied became widespread among the church personnel concerned. (A habitus of this kind, we may remark here in passing, was generally adopted or developed first of all by personnel who were interested in a professionalisation of their own activity.)

Irrespective of the limited realisation of previous arrangements, the crown set out to perfect guidelines for the management of poverty. In 1764, a commission set up by the government worked out new regulations. The poor

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<sup>186</sup> Bloch 1908, pp. 90 ff.

were in future to be divided and treated as follows: 1) *Able-bodied beggars* were equated with vagabonds and the rigorous penal measures applied to these extended to them as well. Men were to be sent to the galleys – initially for a fixed term, subsequently for life –, women and those men too old for the galleys were to be taken into the asylums and work there. 2) *Cripples* were no longer to be taken into the asylums, but to be cared for at home. 3) *The weak* (old people, the sick, the mad, deformed and cripples with no income, foreigners) were to be taken into asylums. New asylums and hospitals were to be built as needed, and old ones improved. 4) *Children* were to be sent home if they still had parents. Others were to be given out until the age of sixteen to peasant families, who would be compensated for their maintenance. It was proposed at the same time to create in each province for a transitional period a depot to receive beggars caught on the streets. Whilst these depots were unambiguously to be penal establishments, the asylums were now declared welfare institutions. All the same, women beggars, prostitutes and the mad continued to be sent to asylums, and no regulations were even made to change asylum conditions.

Along with the demand to run asylums more economically than previously, the *intendants* were now given the proposals of the general commission as recommendations for their practice. They were in addition required to set up alms offices everywhere for administering private donations.<sup>187</sup> These instructions were followed the very same year by the *Déclaration concernant les vagabonds et gens sans aveu*, which codified the penal measures proposed by the commission.<sup>188</sup> It attests to the development of the royal apparatus of government that these instructions were actually carried out, and depots for beggars established in many places. When it was decided to give the police rewards for catching beggars, these depots were very soon filled.

A decade later, in 1775, Turgot ordered the depots to be closed, apart from five. The *intendants* were instead to establish *ateliers de charité* throughout the country, designed to provide work. (Turgot had roadbuilding especially in mind, so that poor law policy in a sense replaced the *corvée*.) But already two weeks later, the minister found himself forced to go back on this decision, as

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<sup>187</sup> Bloch 1908, p. 160.

<sup>188</sup> Isambert, Volume 22, no. 875, 3 August 1764.

many of the released beggars had embarked on a rampage of robbery and taken part in the so-called 'flour war' (cf. below).

There was only one notable exception from this general criminalisation that was remarkable for its time: the establishment of provision for wounded, ill and frail soldiers who had served the king for a long period.

Despite their limited practical significance, these reform programmes marked the transition from the more indiscriminate repression and equally indiscriminate leniency of the past to a regulation of the different extent of punishment, disciplining and care that was to be shown to the various categories of the poor. There was the beginning, in other words, of a management of poverty.

Grain policy might be adduced here as an objection to this interpretation. For this was oriented not to management but to provision. In fact, the crown's grain policy more or less coincided with the first reform attempts in dealing with the poor. (On a local scale, such practices went back much longer.) But this was not so much an innovation as rather a result of the strengthening of royal rule in the provinces.

Where *intendants* were employed to control the existing institutions of rule and make specific administrative arrangements (i.e. not in the *pays d'état*), they also had the task of fulfilling the traditional duties of lords. Monasteries continued to distribute food in time of need, town authorities maintained stocks of grain, and sometimes even landlords or their wives were generous towards needy peasant families. Kings, too, followed this traditional pattern of behaviour. When bread was scarce in Paris, Louis XIV had bread baked in the Louvre. When the archbishop of Chartres informed Louis XV in 1739 that the people were eating grass and there could soon be plague, the weeping queen offered him 100 *louis dor*.<sup>189</sup> This was, in other words, a matter of locally limited charity by the lords – a requirement of the practice of personal rule for centuries. As for *political* measures by the crown, these were confined to the ban on exporting wheat that was frequently repeated in times of shortage. There were also specific measures to ensure the provisioning of Paris, this being an aspect of the royal regulation of local rule in the capital. To ensure this, Louis XV had grain purchased throughout the kingdom, a practice that drove prices still higher, especially in those districts where little grain was

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<sup>189</sup> D'Argenson 1859, Volume 2, p. 165.



grown. Finally, this measure amounted to an official admission that the traditional method of food policy, i.e. local fixing of prices, no longer brought success. In 1725, attempts of this kind came to an end in Paris, and later in many other places as well.

When the traditional instrumentarium of supply policy – export bans, reserves, price fixing – was transformed into an actual regulatory power of the crown, it also began to be dismantled. Abandonment of an export ban was followed by abandonment of price fixing. All trade restrictions on grain were finally abolished in 1763–4. The government followed here the view of contemporary experts that supply of grain would increase in the long run if no barriers were placed to its profitable sale. The edict of 1764 proclaimed that, according to all advice, free trade in grain was ‘the best possibility... for extending the cultivation of land, the product of which forms the most basic and secure source for the wealth of the state’.<sup>190</sup> It was nevertheless expressly laid down that Paris should continue to maintain stocks.

Immediate protests were raised. A series of provincial *parlements* expressed fears for grain supply. Police ‘officials’ protested against the withdrawal of their profitable supervisory functions. The time was also unfavourable for the introduction of the new policy. In 1767 the harvest was bad, and the following year saw bread riots in many places, with the police sometimes refusing to intervene. When the situation did not improve in subsequent years, the *intendants* also increasingly demanded measures to ensure supply. Even though Turgot, one of the most forceful champions of physiocrat dogma, requested troops to put down the disturbances in his capacity of *intendant* of Limoges, he also began to use tax money to purchase corn abroad.<sup>191</sup>

When he was appointed minister in 1776, Turgot again introduced complete free trade, despite this earlier experience and despite the bad harvest of the preceding year. He also ended the stockpiling of grain for Paris. This gave speculators free rein. In the early months of the year the price of bread in Paris rose from 8 *sous* to 9, 11, and eventually 14, in some regions even higher. At the end of April, the Beaumont carters and peasants of the district set their own price for bread, and on 3 May the Paris population demanded a fixed price. News of these events rapidly spread, and popular masses all around

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<sup>190</sup> Isambert, Volume 22, no. 874, 27 June 1764.

<sup>191</sup> Laugier 1979, p. 35.

Paris implemented a *taxation populaire*. This *guerre de farine* or 'flour war' was put down only by hundreds of arrests, the intervention of the military and two public hangings in Paris. Rudé took the repression of this *taxation populaire* as an occasion to note that the poor could not prevail if all the possessing classes, from the urban bourgeois up to the bishops, stood on the side of order, while soldiers obeyed the commands of their officers.<sup>192</sup>

After a good harvest in 1775, grain supply improved, and for ten years the price of bread remained more or less stable. Free-trade policy was a response to the demands for food provision that were increasingly directed at the crown in the eighteenth century. It signalled an end to the traditional practices of personal rule. From now on even the greatest distress would no longer be relieved by a limitation of consumption by the rich, and the crown refused to intervene. In place of a good order imposed by power, supply was now to depend on an abandonment of policy in favour of the effect of the market. This innovation coincided in time with the systematising of ideas and methods for managing poverty. The latter in a certain sense dealt with those problems that the market could not settle.

The centre of public-order policy under the *ancien régime* lay not in the policies for preventing and managing the crises of food supply that have been described above, but rather in practices of rule directed towards enforcing the *unity of religious belief*. For centuries, sacred and secular rule had both been involved in the suppression of godlessness, immorality and heresy. Secular lords threatened penalties hard on the heels of the crime, sacred lords followed with eternal damnation. Religion, however, and a morality based on religion, were not only the regulating instances of everyday life, they also marked the horizon to which legitimisation of rule and demands for its reform were oriented. Just as in other societies of the *ancien régime*, so also in France the Reformation was not only a great shock to established church rule, but also brought a permanent change in the relationship between church and crown. From now on, this was no longer a relationship between secular rule and a single Catholic church, but rather to a plurality of confessions. With the Edict of Nantes, the French crown – as described above – placed itself in an established relationship to both major Christian denominations. By making the Protestants into a privileged corporation, it equally reduced the Catholic

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<sup>192</sup> Rudé 1975, pp. 3 ff.

church to a similar status, curtailing in other words the claim to universality the church had always defended. As was soon to be shown, the time was not yet ripe for this policy, born out of the needs of war. It was not only combatted by the French clergy and all their supporters, and boycotted by Catholic officials in the provinces, it also contradicted the demand that the kingdom should no longer be simply ruled, but actually governed. For, in societies of the *ancien-régime* type, a policy aiming at establishing a unitary religious belief was seen as a key means of regulating the daily life of people of all stations in conformity with power. In the struggle against Protestantism, begun right after the death of Henri IV, the crown enjoyed the support of broad strata of the population and the great majority of its officials.

The particular stages of this struggle can only be mentioned here in brief. In the years 1615 to 1629, the Protestant nobles were defeated militarily in a number of armed clashes. The peace of Alais (1629) decreed that all their fortresses were to be razed and their cannons melted down. The supplementary agreements to the edict of Nantes were thereby cancelled, though the edict itself remained valid. The crown could scarcely have gone any further in the suppression of Protestantism, given its foreign policy at this time. In practice, the formally conceded privileges were interpreted in increasingly restrictive terms in the years that followed – quite apart from particular government strategies. In the *chambres de l'édit* that dealt with religious cases, the prescribed confessional parity was replaced by Catholic supremacy, in Protestant towns the admission of Catholics to local government was enforced, and even the right to Protestant religious observance, which was governed by clauses 8 and 9 of the edict, was now often conceded only in so far as this privilege could be proven by documentary evidence in the particular case. In 1634 the *intendant* of Languedoc, Antoine le Camus, requested that the government extend to the entire kingdom the practice of suppressing Protestant church services in this way that had already been applied in his province.<sup>193</sup> The Fronde seemed to offer an occasion to reacquire the privileges of the edict of Nantes that had in practice already been lost. In its attempt to prevent the spread of this rebellion to regions with a strong Protestant presence, the government assured Protestants, in the 1652 declaration of St Germain, that all the rights they had previously possessed in Languedoc and throughout the

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<sup>193</sup> Bonney 1978, pp. 384–400.

kingdom would again be respected. This declaration helped Protestants very little, though it intensified the opposition to Mazarin.

The era of Louis XIV's personal rule marked a turning point in the intentions of this policy. Whilst the crown found itself forced in almost all other fields to accept established privileges, in the realm of religious practice it was no longer a matter of regulating, restricting or abolishing particular privileges of a confessional group accepted as a corporation, but rather of establishing royal rule over religious belief. From 1661 to 1679, the crown principally used the method of forceful persuasion. Huguenots who formally abjured their faith were rewarded. Certain nobles were literally bought – in a traditional practice of rule that went back for centuries. Many even declared that they were Huguenots simply to abjure and claim their reward.<sup>194</sup> From 1679 – coinciding with the attempt to limit the influence of the pope in France and suppress the Jansenist movement (cf. below) – policy towards the Huguenots shifted. In 1684 the edict of Nantes was formally revoked. Protestant churches and schools were closed (apart from in Alsace). Pastors were forced to convert or were banished. Lay preachers who held services in secret were imprisoned. A strategy of forcible conversion also began. Dragoons were billeted on Protestants, and expressly permitted any acts of violence. *Dragonnades*, imprisonments, dispatch to the galleys and execution had their success. Many Huguenots fled, especially the better off. Others converted. The government remained distrustful of these last, and they were forbidden to carry weapons.

The start of the eighteenth century finally saw a campaign aiming to eradicate Protestantism completely. As against many of the better-off Huguenots, the peasants of the Cevennes, despite suffering and intimidation, had never been brought to abandon their faith. An abbot who had followed official orders in denouncing Huguenots was murdered in 1702. The crown then dispatched foreign mercenaries against the Cevennes peasants. This campaign lasted two years; it was bloody and had only a limited success. Even outward conformity with prescribed religious practice could only be enforced patchily. The *camisards*, as the resisting peasants called themselves, did not fight basically for Protestantism as such; the prophecies that became widespread among them in the time of persecution were rather far removed from

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<sup>194</sup> Mettam 1988, p. 251.

its official doctrines. It was less a question of defending the privileges of a confession than of opposing the claim of the crown to control the beliefs of its subjects. It was in the struggle for freedom of belief that the new practice of government met with its first principled criticism.

Even after the death of Louis XIV, both foreign-policy opposition to the 'Protestant powers' of England and Prussia, and the attempts to enforce the unity of Catholic practice, prevented the Protestant faith from being officially tolerated once more. It was only under Louis XVI that the persecution came to an end. The appointment of Necker, a Protestant, to ministerial office, something that would have been quite inconceivable a few decades earlier, marked the crown's departure from a long political tradition.

Just as in other realms, so in France after the Reformation it was not just Protestants who demanded the right to live in accordance with their deepest convictions, independently if need be from the prevailing church practice. Catholics did so as well; in a word, they demanded freedom of conscience within the dominant church. Once the military power of the Protestants had been broken, Jansenism, the most influential of the reform movements within the Catholic church, presented a far more serious challenge to the dominant ruling practice. This was all the more so, in that Jansenism, since becoming a religious movement, stood above all in opposition to the Jesuits, and while this order had always encountered considerable reservation in France, it did enjoy the protection of the crown – especially under Louis XIV.

Jansenism, named after Cornelius Jansenius, bishop of Ypres, defined itself as the theological counterpole to Molinarism. Not all Jesuits, but the majority of them, adhered to the theological view put forward by Luis Molinarius in 1588, that men did not live in original sin, i.e. they were not basically bad, but were in a position to act well. God however expected very little from men. In the context of moral theology, the Jesuits interpreted this theological position as meaning that God was already content if the rituals of religious practice were maintained. Though the members of the order generally followed a strict way of life themselves, their attitude towards Christians in the outside world responded rather to the conditions of worldly existence. Jansenius, on the other hand, in his *Augustinus* that was posthumously published in 1640, held that men were so bad that they needed God's mercy in order to do good works. This was in other words a doctrine of predestination, though one that – unlike Calvinism – remained tied to salvation by works. Jansenists

demanded a serious practice of religion, an ascetic way of life, a strict morality and the renunciation of worldly strivings. They believed that it was the right of the faithful to read the Bible, promoted the education of children by founding their own schools, the *petites écoles*, and maintained that local parish priests had the same authority as bishops. The enhanced value that Jansenists placed on the parish priests led to Jansenism and Richerism being seen by many as forming a unity, for Edmond Richer also held that the authority of parish priests in the church was on a par with that of bishops. (He also maintained that the pope should accept the decisions of councils.) Many lower clergy who expressed views akin to Richer's over bishops were accused of Jansenism – rightly or wrongly. It was the authorities that made Jansenism into a religious *movement*. The crown took a critical view of this orientation right from the start, as Jansenius severely criticised the anti-Spanish, i.e. anti-Catholic foreign policy of Louis XIII. The regular persecution of Jansenists began with the imprisonment of a prominent champion of Jansenius's doctrine of salvation in 1653. In the same year Pope Innocent X, at the request of the French crown, published the first bull against the theological views represented by Jansenism. In 1660 Louis XIV announced that he was ready to root out Jansenism; this was a basic element in the personal government that he now exercised. If the ruling programme later described as absolutism, and associated especially with *le roi soleil*, found expression anywhere, it was in the determination to rule the religious practice of his subjects. In 1660 the *petites écoles* were closed, and 1664 saw the struggle commence against the convent of Port-Royal, which had become a meeting point and intellectual centre of Jansenism.

At this point, Jansenism developed from a tendency within Catholicism defined above all in theological terms, to which members of the clergy and a small circle of educated laity were attracted, into a religious movement. Prayer books for lay people were published, including a compilation with translated extracts from the New Testament that was violently attacked. Jansenism eventually became a kind of party. All those who opposed the religious views of the Jesuits and their special connection with the pope were accused of belonging to it. The Jesuits' particular obedience to the pope, which was rewarded with fiscal and legal privileges, collided with the principle of Gallicanism that had long been a presence in France: the view that the rule of the pope over the French church was to be restrained – whether by councils

or by the king's judicial power. Whilst this Gallican implication of Jansenism brought the movement high-placed supporters and even enthusiasts, it was its Richerist aspect that attracted parish priests. The *Lettres provinciales* that Blaise Pascal published after his conversion also contributed to the appeal of Jansenism among the lower clergy.

The social expansion of Jansenism was accompanied by miracles, the first of many taking place in 1656. These generally occurred at the graveside of Jansenist priests who had lived a godly life.

The secular power responded to the expansion of Jansenism with *lettres de cachet*, the religious power with papal bulls. In view of growing internal difficulties, and a criticism of his policy that could scarcely be suppressed, Louis XIV reacted impatiently to a movement which, since it demanded reform of the church, also implied criticism of secular power over religious belief. The temporary peak of his repressive policy was the attempt to destroy the convent of Port-Royal after the nuns had refused to accept the bull published against Jansenism in 1705. The earthquake of 1709 then served as an occasion to exhume the corpses of Jansenists who had been buried in the convent cemetery, and the order was subsequently given to plough up the site. Despite widespread criticism of this action, Louis XIV believed the time was ripe for a decisive final blow against Jansenism. He consequently requested a new papal bull against this heresy. The *Bulle Unigenitus* published in 1713 laid down quite precisely what beliefs and practices were forbidden. The theological positions were so rigorous that the assembly of French clergy was not prepared to accept the bull without certain qualifications. It provided the *parlement de Paris* with grounds for refusing to register the bull as law of the French kingdom. When the king insisted on the bull being registered, he sacrificed the long-established legal position that papal decrees could only have validity in France if they were formally adopted by the French clergy and subsequently registered by the *parlements*. Instead of eradicating Jansenism, the crown effected a long-term alliance between Jansenism and Gallicanism, in other words the protection of Jansenism by the *parlement de Paris*. This connection was to make protracted problems for subsequent governments.

After 1713, all those in France who refused to accept the *Bulle Unigenitus* were deemed to be Jansenists. The precise regulation of belief that was intended with this bull caused more than a few priests to abandon their reli-

gious office and seek other fields of activity. In the regency that followed the death of Louis XIV the question of Jansenism was not in the foreground, but in the 1730s it developed into a regular government crisis. There were two specific reasons for this. The first was the miracles that occurred at the grave of François de Pâris, a priest who died young and whose grave was visited by many who honoured him for his self-sacrificing service. Pâris had been a well-known opponent of the bull. It went without saying, then, that when increasing numbers of people from Paris and beyond made their pilgrimage to the Saint-Médard cemetery, this development was attributed to the Jansenist movement. Well-known representatives of Jansenism themselves promoted this view.

A practice of chiliastic enthusiasm developed among the believers who came to the Saint-Médard cemetery. These *convulsionnaires* disquieted the government. Eventually the pope demanded that something be done. Since the crown could not count on the support of the courts, it had some of the *convulsionnaires* imprisoned and medically examined in the Bastille. The announcement was then made that the convulsions of the enthusiasts were deliberately induced bodily reactions, veiled in religious humbug. The government took care not to have the miracles that happened at the cemetery investigated, let alone to take legal action against them, but with this argument the cemetery was closed. This action however was quite unsuccessful, as well as provoking one of the finest graffiti in history. A short time after the gates of the cemetery had been locked shut, the following words were to be seen there:

De par le roi,  
Défense à Dieu,  
De faire miracles  
En ce lieu.

Though the violent persecution of the following decade deprived the enthusiasts of their high-placed supporters and spokesmen, so that religious practice at the Saint-Médard cemetery fell back into a less respectable expression of the piety of the lower orders (continuing in this vein into the nineteenth century), the government's action did not mean the end of Jansenism. Persecution subsequently focused on the tendency's secret press. The *Nouvelles ecclésiastiques* appeared weekly from the 1720s, also containing detailed reports of political



and legal questions. It cost 3 *sous*, which was relatively cheap. It was distributed particularly in Paris, but dispatched even to small and remote villages.<sup>195</sup> When the archbishop of Paris ordered the prosecution of those producing the paper, priests petitioned in its favour, and at the trial, the *parlement de Paris* upheld their right to intervene. The king decreed an edict ordering a general silence on the affair. The *parlement* however refused to obey this, was sent into exile for a year, conceded, and everything remained as it was. In the 1750s there was a new government crisis when the *parlement de Paris* declared it illegal for bishops to order that notorious *anticonstitutionnaires* (opponents of the *Bulle Unigenitus*) were only to receive extreme unction if they signed a document before their last confession acknowledging the validity of the bull.

Jansenism reached its high point as an opposition movement with its victory over the Jesuits. The conflict that Jansenists turned to their favour can only be briefly mentioned here. Jansenist lawyers used the opportunity provided by the bankruptcy of a Jesuit abbot who not only directed a monastery in Martinique, but also – or mainly – engaged in business there. Though religious orders were permitted to sell products produced on their lands, regular commerce was forbidden not just by the rules of the order, but also by the laws of the kingdom. With the argument that because of the especially strict duty of obedience of all Jesuit members, the order was responsible as such for the abbot's offence, the injured parties, who had been advised by the Jansenists, demanded compensation. Instead of paying, however, the Jesuit order presented a counterclaim to the *parlement de Paris*, expecting that the chamber responsible there would decide in its favour. But the Jansenist supporters in the *parlement*, few in number but extremely active, brought into play the principles of Gallicanism against the Jesuits' privileges, and their very public abuse in this case. Between 1762 and 1764, the order was condemned first by the *parlement de Paris* and then by all other *parlements*, and banned from France. The crown sought to prevent this development by decreeing a reform of the order, but it eventually had to give in. In 1764 the spearhead of Counter-Reformation was banned from France, the order's schools were dissolved, and its wealth confiscated. This victory of Jansenism, however, represented the end of its significance as a centre of criticism of the ruling rule. The *Nouvelles ecclésiastiques* continued to appear through to the time of the Revolution, but became increasingly just a journal of private religious practice.

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<sup>195</sup> Kreiser 1978, p. 50.

The conflicts over Jansenism had lasted for an entire century, involving a relatively broad national public (though still unresearched in its quantitative scale). If the movement was initially centred exclusively in the educated classes, from the second half of the seventeenth century there were also satirical sheets and journals in a more popular vein. Publications of this kind integrated the Jansenists into the anticlericalism that rapidly grew widespread in the course of the eighteenth century.

In its criticism of the clergy in general and the Jesuits in particular, Jansenists and *lumières* even came into contact. It was only after the ban on the Jesuits that antagonisms between the two tendencies became apparent. From the mid-1760s, Jansenism lost its importance as a point of crystallisation for the criticism of rule. In the government's conflicts with the *parlement de Paris* several years later, the attitude of certain judges on the Jesuit question still played a role, extraordinarily harsh conditions of exile being imposed on especially vigorous champions of the Jesuit ban, but this was only a delayed punishment.

Jansenism belongs in the structural context of post-Reformation Catholicism, but was at the same time characteristic of a structural change in the seventeenth century: the emergence of a separate culture of the educated classes. Cutting across the cultural differences that persisted as a function of differences in material conditions of life, across differences between urban and rural culture, and – to a certain degree – even across differences between noble and non-noble, there arose specific cultural forms of the educated classes, or to put it another way, a literary public that transcended local limits and an urban culture in which rules developed as to how to treat foreigners who belonged to this new cultural milieu.<sup>196</sup> This differed from the earlier literary public that had already linked scholars living far removed from one another, not just in the greater number of its participants, but above all in the fact that in its forms of association and the media it employed it deliberately closed ranks against the lower orders. At the same time, the public of the educated classes opposed to the hereditary nobility in practice – and sometimes also explicitly – the notion of an intellectual nobility. They expressed a criticism of the existing criteria of hierarchy, but in no way of the principle of hierarchy in general.

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<sup>196</sup> Sennett 1983.

This structural development changed the conditions for the exercise of rule. The French crown dealt with this situation in three particular ways: by repression, censorship and integration.

The authors and publishers of *libelles*, those secretly produced scandalous writings and caricatures directed against authority, could only expect repression. At the end of the seventeenth century, their distribution reached a level that had not been seen since the Fronde. Censorship operated in a similar way to repression, but went rather beyond this, in an attempt to regulate the production of books, papers and periodicals. Like many other things, censorship was newly regulated by Colbert, and in a particularly comprehensive fashion. His decree of 1686 was followed by governments in the next century. It aimed at restricting the number of printing presses. Printers were forced to join guilds, and the large printing presses were given privileges which ruined the small ones. The number of apprentices was also limited, and the number of journeymen subjected to special permission. Two copies of each book had to be supplied to the public library. While book production in Paris could be more or less controlled, in the provinces the censorship measures proved a failure. During the war years of the early eighteenth century, a complete ban on pamphlets and flyers was imposed on many occasions, but after a short while it always had to be revoked. The government acted differently towards the French-speaking newspapers that started to be imported from the Netherlands and Switzerland in the second half of the seventeenth century. It initially banned their import. But if a newspaper had established itself and proved to be not basically unfriendly towards the French government, it was officially tolerated – against payment of compensation to the *Gazette de France* (see below). Censorship made publication risky, but not impossible. The long history of ineffective censorship measures ended with the attempt to proscribe the *Encyclopédie*. Distribution of the first two volumes was still banned on the grounds that, in the words of the royal council of 7 February 1752, ‘several maxims are contained that could serve to undermine royal authority and establish a spirit of independence and revolt, while obscure and unclear notions offer foundations for confusion, the corruption of the state, the decline of religion and unbelief’.<sup>197</sup> Subsequently, however, the authorities granted official permission for the volumes of the *Encyclopédie* to be printed

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<sup>197</sup> Isambert, Volume 22, no. 673.

over the Alsatian border, and each new volume was awaited by four thousand subscribers.

From the seventeenth century, the integration of cultural forms of the educated classes proceeded via measures of repression and regulation. The centrepiece of this strategy was the institutionalising of *académies* that had initially arisen as private foundations. Since Richelieu's time, as we have already mentioned, these received royal privileges and were regulated. There were also cultural forms of the educated classes that remained immune to regulation: the Masonic lodges, the sociability of the salons, the reading associations that were established in a large number of towns in the eighteenth century after the English model, as well as cafés in which newspapers were available. Private discussion circles were also established continually. Until the mid-eighteenth century, participants in serious discussion groups still had to expect difficulties. The events that d'Argenson recounts in his memoirs illustrate how this was not only a problem for people outside the court and the 'administration'. In 1731, some 23 men (whom d'Argenson names) came together for regular discussion of important developments and scientific discoveries. Each of the 23 was allocated a particular subject on which he was to keep regularly informed. It was expected that he would read the most important topics in domestic and foreign publications, and correspond with scholars abroad. At regular intervals, the other members would then be supplied with a résumé of the field in question, for example public law or the art of government. Rumours of these gatherings of the Entresol, as the circle called itself, reached the court, and 'it was said that we are ruling the state, and mixing in things that are not our concern'.<sup>198</sup> Though d'Argenson had no actual office in the 1730s, he had from 1720 to 1725 been *intendant* in Hainaut and Cambrai, while another member of the circle was preceptor to the royal princes, and most of the rest occupied high positions in the church or the royal 'administration'. The chief minister however imposed a more or less explicit ban. Fleury's reasoning, as shown in a letter to the Abbé Saint-Pierre of 11 April 1731, has an interest beyond this particular matter:

I take it from your letter of yesterday that you intend to discuss political matters in your assemblies. But since such questions generally lead to other

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<sup>198</sup> D'Argenson 1859, Volume 2, p. 101.

things that were not foreseen, they are not an appropriate subject. There are enough others that are equally worthy of your consideration, without their having the same consequences. If you are determined to continue your assemblies, I request you therefore not to discuss anything that might give cause for complaint...<sup>199</sup>

After indiscreet members of the circle had been shed, the meetings continued, necessarily in secret. Vexations at court, however, along with the awareness of being under observation and career considerations, soon brought an end to this unauthorised eighteenth-century *académie*.

Thirty years later there were many circles of this kind, and they were now tolerated. The same went for the transformation of their reports into periodicals. As Jack R. Censer has shown for the example of the *Gazette de France*, which was founded in 1632 as the organ of the royal administration, the *Courrier d'Avignon*, a paper for France that was produced in the papal enclave, and the *Gazette de Leyde*, of which for example 2,650 copies were imported in 1778, the tenor of reports in all three papers had changed since the mid-century. Alongside reports of the royal family and the court, there was now reference to social tensions, to differing views among government officials, and to the mistakes of foreign (!) monarchs.<sup>200</sup>

Under Louis XVI the crown's strategy towards the media and the organisational forms of educated opinion underwent a change. The government did not abandon the principle of its claim to regulate public opinion, but it allowed an expanded room for manoeuvre in both thought and action. This permitted Jansenist and Protestant practice, private discussion circles and critical publications. This relaxation did not effect any large-scale opening of literary opinion. As Stephen Botein, Jack R. Censer and Harriet Ritvo have shown in a comparison of periodical literature at this time in England and France, the themes of French publications restricted the potential readership circle to a relatively small social stratum. Their producers continued to use their privileges as a means of making profit, rather than seeking to expand their markets.<sup>201</sup>

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<sup>199</sup> D'Argenson 1859, p. 108.

<sup>200</sup> Censer 1988, pp. 127–52.

<sup>201</sup> Botein, Censer and Ritvo 1985.

Even under Louis XVI, of whom J.F. Bosher says he was brought up as a Christian nobleman of the *siècle des lumières* and was indeed a kind of liberal,<sup>202</sup> there were limits to toleration. While many critical publications of the nobility were able to appear unmolested, Beaumarchais, whose play *The Marriage of Figaro* the king had tried right from the start to ban, was locked up in the reformatory for young offenders in Saint-Lazare. The right to chastise his subjects was still enforced even by the most enlightened of French kings.

The cultural forms of the educated classes were structural features of the developed *ancien régime*, not a fundamental opposition to it. It is true that these forms could contain attitudes that questioned traditional self-conceptions, especially those of the authority of the clergy and the privileges of the nobility. Reforms were also demanded in many fields of society. These reforms claimed as their yardstick of legitimacy the new criterion of social utility. Though the public of the educated classes remained restricted, it did ensure that the standpoint of social utility came to prevail among the bearing groups of generalised rule in the course of the eighteenth century. The rule of God and king was not contested – even among the *lumières* there were only a few atheists, and not all were republicans –, but the commandments made in their name had to be legitimised by a new instance. This rulership claim stood in contradiction to a practice of order the central content of which was the prevention of civil war and the implementation of a unitary religious practice, but it did not stand in principled contradiction to personal rule, rather offering this, on the contrary, new opportunities of legitimisation. At first sight, the political terrain presents a contradictory picture: on the one hand the crown's renunciation of traditional practices of public order, on the other hand a continuing claim of regulation. But these were two sides of a unitary process. If good order was previously demanded so as to obstruct changes in an established practice of rule, in the course of the eighteenth century a notion of rule developed that was oriented towards governing society in such a way that social problems – and to this extent also social changes – would be *managed*.

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<sup>202</sup> Bosher 1989, pp. 68, 73.

## b.2. Le roi soleil?

In 1682 the king established his court at Versailles. The classical façade of the palace signalled an ordered and splendid world, and this symbolism was reiterated a thousand times in the forms that Le Nôtre gave to the king's gardens, even to individual plants. The music played at the court of Louis XIV, the compositions of Couperin and above all Lully, evoke a luminous brilliance and a fixed order of things. But nowhere was this expression more incontestable than in the formal ceremonial that governed life at court. Under Louis XIV, court ceremonial decisively became a structural feature of monarchical rule. All these forms of representation of monarchical rule marked the concept of absolutism. Yet as Herbert H. Rowen has indicated, analytically this says nothing, but simply reproduces the image that Louis XIV presented of his personal rule.<sup>203</sup> An image, we could add, that he presented successfully for two decades. For strictly speaking, the successful representation of a king who radiated over court and kingdom like the sun only marked the first two decades of Louis XIV's personal rule.

The theatre of royal power was politics. It redefined each day the personal aspects of royal rule, and so effectively that the staging of French monarchy that was elaborated under Louis XIV made later revisions of this notion difficult. This can be illustrated in a single detail: the image of the generous father of his country was hard to combine with the role model for French kings that Louis XIV elaborated. A corresponding transformation would have required of his successors the will and ability to deliberately redefine the meaning of personal royal rule.

The specific forms in which royal rule was represented in France from the second half of the seventeenth century combined the traditional definition of royal rule with international contemporary trends of reproducing power by displaying it in its full splendour, including the strictly personal inclinations of its leading characters. The form in which personal royal rule was presented in France under the developed *ancien régime*, however, can also be interpreted as the *management* of specific political problems. For the theatre of personal rule established each day – with the court as the milieu of the main presenter – what in actual fact could hardly be achieved in fact: making the king the

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<sup>203</sup> Rowen 1969, pp. 302 ff.

centre of all decisions, with the nobility at his service. 'It is unbelievable what the king had in mind in this field'.<sup>204</sup>

The French nobility were used to good theatre. Even the most convincing performance, however, would hardly have sufficed for them to perceive the compulsion of residing at court as a privilege, and to experience banishment from court as a punishment. But the process of court confinement of the high nobility found a brilliant and – as we shall show – decisive apogee in the ruling practice of Louis XIV. This process, as we have shown above, had been set in motion by armed force and money many centuries before, and was increasingly formalised in the judicial authority of the crown. The practice of integrating the great nobles into the structures of generalised power by a combination of repression and gratification continued in the seventeenth century. During Louis XIV's minority, for example, the entire state treasury was largely used by Sully to buy the loyalty of great nobles. The nobles of this time still had autonomous armed force at their disposal, and this went also for the leading Huguenots. Even when the fortresses of Huguenot nobles and cities were razed, the defeated members of the high nobility, if they reconverted to Catholicism, not only received back their possessions, but were granted all their other privileges as well. It was only after the high nobles had conspired in 1626 to assert their claim to state office against the crown, that the remains of their particular military power were finally reduced. From 1627, the French crown claimed supreme command of all fighting forces. In the so-called 'princes' Fronde' (1649–52), the great nobles who rebelled no longer organised their own military power, but sought to use the revolt of the *parlement de Paris*, the tax rebellions and the revolts of urban office-holders for their own purposes. (The character of the princes' Fronde became abundantly clear when the same nobles who opposed the king and sought greater influence on political decisions, profited as financiers' *croupiers* from the crown's indebtedness, which their own actions increased.)

After the Fronde of the *parlement de Paris* was abandoned, and that of the princes was defeated, the high nobility lost the last of their old claims to formal participation in the policy of the crown. This however in no way meant – a point on which Roger Mettam lays great importance<sup>205</sup> – that the king from

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<sup>204</sup> Saint-Simon 1985, Volume 3, p. 290.

<sup>205</sup> Mettam 1988, *passim*.



now on completely rejected the advice of great nobles, simply that he made use of this advice as and when he saw fit, and outside the formal structures of the royal council. Successful foreign policy in the first two decades of Louis XIV's personal rule, along with the stabilisation of the royal finances, placed the king in a position to break the power of the high nobility while at the same time softening up its members with gratifications. Thus was effected by direct payments (pensions) and by the granting of court offices that involved no work and had no real significance. In a certain sense, even gubernatorial offices were sinecures of this kind. They remained reserved to the great nobles (as did the highest offices of the church), and not only were their incomes not curtailed, but many of the competences formerly bound up with these offices were now transferred to the *intendants* and *lieutenants-généraux*. Moreover, to prevent the office of governor being used to create a regional basis for power strategies, appointments were now announced only for a three-year term, and to visit their provinces the governors needed express leave from court, which was generally granted only for a few weeks each year.

A similar procedure was adopted in the armed forces. Here too, the topmost positions remained reserved for members of the high nobility, yet these had to give way more than ever before to the supreme command. The conduct of their office was also subject to the supervision of the *commissaires de guerre*. Formally, the powers of these *intendants* even extended to the arrest of officers – right up to marshals – who contradicted their orders.

Besides strategies of gratification, those of disciplining and repression were also employed. It is true that the ban on duels remained largely ineffective under the reign of Louis XIV – despite being repeatedly imposed in 1651, 1679, 1704 and 1711 – but in other ways the crown used its arbitrary powers against nobles who were either disobedient or suspected of being so. They were banished, expropriated and imprisoned. At the apogee of Louis XIV's might, when mere banishment from court was a greatly feared punishment, this also meant not only loss of income, but also of the particular status of those who sunned themselves in the crown's radiance. The obligation of court residence, which applied to the very highest nobles from the beginning of Louis XIV's personal rule, was their most eminent privilege.

With the formalisation of court ceremonial, a new hierarchy of status arose alongside that of lineage, manifest in the visible expression of royal favour. Louis XIV was a master of the art of making political use of his power to grant

ceremonial status. He made men dream of being admitted to the ceremony of the king's morning *toilette*, and women hope to receive the privilege of the *tabouret* (the right to sit down on a stool even in the presence of the king). Struggles over influence and status were waged to a considerable extent as struggles for position in the context of court ceremony:

By himself naming those who were allowed to take part, the king used these constant feasts, the excursions and promenades at Versailles, in which only a select few were allowed to take part, in order to bestow distinction or make a public show of rejection, and in this way encourage all to exert themselves keenly and unremittingly to win his favour. He knew only too well that he had not nearly enough material rewards to bestow for these to have a lasting effect; so for reality he substituted imagination, jealousy, and the petty advantages that thanks to his cleverness he had at his disposal every moment of the day.<sup>206</sup>

The result of this development was that the status of high nobles as lords could scarcely have been reproduced outside of the court, even if they were not obliged to reside there. This was why even the majority of known Huguenot nobles returned to Catholicism already before the forced 'conversions' of the 1680s, thus placing themselves in a position to be allowed to return to court. The only Protestants that remained in the nobility at this time were those who took their faith so seriously that they did not fear a loss of status. At the same time, the fact that the court became the centre of noble culture (for the high nobility) meant that the cultural forms of the court spread among those who hoped for social advance.

Despite the enforced residence of the high nobility, some nobles still intrigued with foreign powers against the French crown, and others supported local resistance against government decrees. But it was only under the regency that followed the death of Louis XIV that the French high nobility once again succeeded, at least temporarily, in gaining privileged access to the means of generalised power. Philippe d'Orléans, who had been appointed regent under Louis XIV's testamentary provisions, sought to win the agreement of the high nobility with a reorganisation of the government that was

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<sup>206</sup> Saint-Simon 1985, Volume 3, p. 289.

later described as *polisynodie*, and in 1715 a number of specialist councils were set up, filled principally with the *noblesse d'épée*. The former ministers were either dismissed, or offered a position of speaker for the councils. All save one of them rejected this offer. The regency council consisted of sixteen members of the high nobility, every one illustrious. The regent also satisfied the most important political demands of the court nobility. The legitimisation of the illegitimate sons of Louis XIV, which would have put them in succession to the throne, was annulled, and the first president of the *parlement de Paris* was ordered to remove his biretta if he wished to solicit the advice of *pairs* attending its sessions. The fact that the biretta question was decided by a *lit de justice* in 1718 illustrates the immense significance that ceremonial regulations had acquired.

The *parlement de Paris* enforced concessions, in its successful resistance to the banking plans of John Law, and against the attempt to limit the right of remonstrance. After this, the councils were very soon either abolished, or their membership changed. The regency council remained in place – for show, as Dom Leclercq put it.<sup>207</sup>

One factor that contributed to the disempowerment of the high nobility was that the *pairs* did not manage to make themselves spokesmen for the nobility as a whole. Thus against the will of the regency council, but with the support of the regent, in 1716 and 1717 the members of the Second Estate, convened as the 'assembly of nobility', maintained that the *pairs* had no special privilege, and that in the absence of the king it was the president of the *parlement de Paris*, and not a commission of *pairs*, that should represent him.<sup>208</sup> After 1717, the nobles met together only on a regional level (particularly in the *pays d'état*), but until 1788 there were no further plans for a nationwide assembly, nor any strategy of the high nobility to set themselves up as representatives of the nobility as a whole. The *polisynodie* thus proved exemplary only in so far as it finally confirmed that the French high nobility could exercise their power only in the context of the practice of royal rule.

And yet those elements of presentation of royal rule that symbolised that the king stood high above all others, even the most eminent nobles, remained in existence in the eighteenth century. These comparatively new structures of

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<sup>207</sup> Leclercq 1921, Volume 2, p. 208.

<sup>208</sup> Lassaigue 1962, pp. 156, 144.

representation of personal rule were combined with traditional definitions. In the *lit de justice*, the highest judicial authority had been manifest for centuries. Though the eighteenth century saw repeated bitter controversies between the crown and the *parlements*, especially the *parlement de Paris*, and the *parlements* eventually even refused to acknowledge registered laws, it never happened that the *parlement de Paris* resisted a *lit de justice*. If the king was present not simply in the sense of a *séance royale*, but physically on his throne, then the *parlement* would register laws no matter how much they went against the grain. This was even the case – a situation that we still find in the eighteenth century – when Philippe d’Orléans took the boy in whose name he ruled with him to the *parlement*, or had him brought there. Legitimation by the church continued to be seen as a sacrament, and the king’s healing ability was not abandoned as an outdated form of royal rule, but actually integrated into the new spirit of the age.

In 1723, a year after Louis XV had laid his hand on 2,000 supposed sufferers from scrofula,<sup>209</sup> d’Argenson – at the time *intendant* in Hainaut – heard from one of these who had returned cured from Reims. He had him examined by doctors and sent the resulting certificate post-haste to Versailles, but received a reply that ‘no one doubts the ability of our kings to work such miracles’.<sup>210</sup> A few years later, however, it became customary to supply this kind of scientific evidence; it was even seen at court as desirable. In this way, the thaumaturgical ‘plot’, as Carlo Ginzburg called the king’s healing ability,<sup>211</sup> became a scientifically established aspect of the French king’s personal rule.

Many historians have concluded, on the basis of the increased institutionalising of the generalised royal rule, that the personal character of this rule was thereby abolished, and transformed into a public office. Roland Mousnier, for example, maintained that, under the developed *ancien régime*, the office decided on the majority of the royal person, forbade the king to extend the crown domains or to practise a different faith from the Catholic. ‘The king of France,’ he continued, ‘can thus in no way be described as more than a private individual. Everything about him is absorbed in the function [*sic*] of being king’.<sup>212</sup> Mousnier is wrong here. All these regulations in no way alter

<sup>209</sup> Bloch 1961, p. 397.

<sup>210</sup> D’Argenson 1859, Volume 1, p. 47.

<sup>211</sup> Ginzburg 1981, pp. 20 ff.

<sup>212</sup> Mousnier 1974, Volume 1, p. 505.

the fact that the way of life that Louis XIV described in a reflection he wrote in 1679 as *le métier du roi* remained a work designed to present the possession of personal rule. The practice of royal rule was subject to immense practical and increasingly also institutionalised limitations. But this does not alter the fact that the French kings could claim royal rule as personal rule right up to the moment when the National Assembly was strong enough to demand a constitution. What Louis XVI rejected was not the reform of an office of state, but the renunciation of his personal rule. If he feigned to accept this, he certainly did not give up the goal of re-establishing the order of things that he was convinced was God's will.

b.3. *Privatised generalised rule: the crisis-prone structure of the ancien régime*

Of the children born in Lyon between 1750 and 1774, more than a quarter died before their fourth year and almost half before they were out of their teens. In the districts where the silkworkers lived, the figures were still higher: 10 per cent of children did not reach the age of two, and almost 60 per cent did not reach twenty.<sup>213</sup> More than half of the sucklings that the poorhouse gave out to wet-nurses regularly died, and in many communes the figures for the second half of the eighteenth century were 70 per cent and more.<sup>214</sup>

In 1789, at least a third of all people living in France, perhaps close to a half, were very poor, many of them living in utter destitution.<sup>215</sup> The transition from poverty to destitution did not take place suddenly. For years a family might just about manage to hold its household together. Then the death or sickness of a parent, rising bread prices or rent, the loss of employment, or a combination of these plagues, destroyed the previous possibilities of existence once and for all. Begging, the poorhouse, prostitution or vagabondage were the results. How many people spent their life in this way is unknown, but what is sure is that their number had been rising since 1740, and in the 70s and 80s, when bad harvests and a crisis in textile production accelerated the fall from poverty into destitution, this reached a record.<sup>216</sup> In Burgundy at

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<sup>213</sup> Garden 1971, p. 108.

<sup>214</sup> Garden 1971, p. 129.

<sup>215</sup> Hufton 1974, p. 24.

<sup>216</sup> Hufton 1974, p. 127.

this time, regular robber bands were to be seen, gangs of young people of both sexes who had never found regular work.<sup>217</sup>

The living conditions of peasant families differed greatly from one region to another. Only the basic structures of French society under the developed *ancien régime* are elucidated by the overall assertion that three-quarters of all peasant families did not possess sufficient land to live on. They thus needed rented land, day-labour, handicraft activity or employment in building ditches or roads. Children would be sent out to a rich peasant or a local landlord when they were scarcely ten years old.<sup>218</sup>

The French population grew by about 30 per cent in the eighteenth century. This was not very great compared with the growth of more than 60 per cent in England and over 70 per cent in Spain, but given the limited material basis, the fact that more people grew up to adulthood than before meant that members of the lower orders had to compete more intensely with each other for land and wages, while bread commonly became scarce and dear. Agricultural production certainly rose in the course of the century. But since this increase – as we have already explained – rested not on a change in production methods, let alone on any systematic power of capital over the production process, but almost entirely on an extension of the area cultivated, it came up against tight limits. In the second half of the eighteenth century, the traditional methods of extending the arable land were practically exhausted. This is one of the reasons for the attempts to abolish the peasants' collective rights. The physiocrats' reform proposals that we have already discussed above, had they been realised in their full extent, might have effected a significant further increase – but at what price? Most of the peasant families, who held body and soul together with their acre or two and their access to common usufruct rights, would have been ruined. They would not only have lost their existence as peasants, but would hardly have found any alternative way of making a living.

The entire course of the *ancien régime* in France was dominated by crises of the *type ancienne* (Ernest Labrousse), i.e. crises that were heralded by a rise in bread prices, and every crisis of provisioning, the result of bad harvests and intensified by speculation, was followed by crises in trade and manufactures

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<sup>217</sup> Hufton 1974, p. 125.

<sup>218</sup> Campbell 1988, pp. 20 ff.

due to lack of demand. This crisis-bound structure of material reproduction was not overcome either by the immense growth in colonial trade, the rise in mining production or the thriving of some branches of manufacture; indeed it took an even sharper form in the second half of the eighteenth century. As a result of inflation and unemployment, refusal to pay taxes became common, along with the fixing of prices by a resisting population, aggressive begging and robbery. Phenomena of this kind were structural features of a society in which the lower orders, if they sought to make their voices heard, had no modes of behaviour open to them that would not be criminalised. If the authorities reacted draconically, this was a structurally typical ruling practice for the *ancien régime*, and not even the signal of an 'intensifying' crisis of rule.

The second of the great crisis complexes of the French *ancien régime* resulted from the privatisation of generalised rule. The fact that offices could be bought and inherited limited the crown's scope of action, so that it could generally afford strategies of expropriation neither financially nor politically; it provoked conflicts between the 'sword' and the 'robe', or at least between particular groups on both sides, and reinforced the crisis-like structure of material reproduction. Offices were a relatively secure investment, and often a rewarding one. Above all, however, income from office brought social respect. Ownership of office could provide access to circles that remained closed to mere merchants or artisans, no matter how wealthy they were, and in certain circumstances it opened the way to ennoblement – or, for those already ennobled, integration into the families of the long-established *noblesse de robe*. In the social conditions of the time, investment in office was a good prospect for all who sought social advance for themselves or their children. For, despite all the criticism made of it – which grew steadily in the eighteenth century – under the *ancien régime* the nobility remained culturally dominant. There certainly were families of the wealthy bourgeoisie whose strategies of marriage and appropriation were not designed to raise themselves above their station, but on many others the attributes of nobility exercised a considerable force of attraction. For all those set on noble status in *ancien-régime* France, the route via ownership of office was unavoidable. This meant, however, that a considerable part of accumulated wealth was diverted to unproductive waste. The same was true of investment in state loans. The crown's regular financial crises, the high interest payments and the conditions of advance into the nobility,

all contributed to reinforcing this pattern of behaviour. This meant the reproduction of practices of appropriation the very existence of which restricted the possibilities of expanding the basis of material production. This development coincided in time with a dramatic rise in the costs of war and with the power-political strategies of the French crown. The French kings' advisers were aware that the crisis of generalised power was becoming acute, yet the remedies that most immediately suggested themselves were unavailable. For no matter how powerful the French crown was, it did not have the strength to abolish private ownership of offices and established privileges. All government strategies that aimed at making the 'administration' an instrument of the crown were undone by demands for fees, competences and pensions. The possibilities of reforming the generalised rule were severely restricted in *ancien-régime* France.

Acute crises of government generally arose when the crown was no longer in a position to more or less satisfy the different interests established in the 'state apparatus', or else to play off their representative groups against one another: in times of a king's minority, in the case of a fall in the profit from offices and 'state' creditors, and also if a king did not 'enjoy respect' in his government. That latter observation was made about Louis XVI by Count Mercy-Argentau in a letter of 6 November 1784 to the Austrian state chancellor Kaunitz.

The crisis-prone structure of the material reproduction of generalised rule, and the structural obstacles to their adequate reform, were the preconditions for the French Revolution. The question why this Revolution actually occurred demands separate explanation.





## Chapter Four

# The French Revolution as Event and Structural Change

### **Digression: The French Revolution as object of dispute between historical schools**

Nothing need be added here to the many depictions of the French Revolution that historians have offered. We shall confine ourselves to certain aspects of the latest phase in the long struggle over the interpretation of this historical event and along with it the interpretation of the history of the French nation, a struggle also over issues of contemporary political discourse and for academic esteem.

It seemed at the end of the 1950s as if, whilst analysis of the Revolution could always be pursued further, its interpretational framework was now secure. From the time of Aulard, Jaurès and Mathiez, the Jacobin tradition of interpreting the Revolution had been increasingly linked with materialist analytical concepts. Georges Lefebvre had extended this model of interpretation, which was already internally coherent, with a history from below when he drew attention to the revolutionary struggles of the peasantry.<sup>1</sup> When Albert Soboul's great study of the Paris *sans-culottes* appeared in 1958, the urban activists from the lower orders had also found

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<sup>1</sup> Lefebvre 1959.

their historian. One might have supposed this to be the cornerstone of an analytical framework that could subsequently be applied to ever further areas.

Already in the arguments of Jaurès and Mathiez we can rediscover the crude model of historical theory that Marx and Engels had taken over from contemporary political debates about the 'class struggle' between bourgeoisie and nobility and used for the propagandist text of the *Communist Manifesto*. When a particularly confined version of Second-International Marxism spread in France, claiming to be a science of society and its historical development, the materialist interpretation of the Revolution (usually known in France as the 'social' interpretation) passed from the heady emotion of the *Manifesto* to the sorry structural analysis of orthodox Marxism. In this respect as well, Soboul's works marked an end-point. Despite being undoubtedly a great historian, even Soboul pressed historical events into a categorical pattern immune to further research. In this interpretation – as can be read for example in his classic work *La Révolution française*,<sup>2</sup> the Revolution was a watershed between feudalism and capitalism. Feudal forms of appropriation, and feudal-aristocratic forms of rule, had been dominant in France up to August 1789, but they were experiencing a profound structural crisis. For this reason, the feudal-aristocratic class in France was no longer able to defend the old system once the crown's financial crisis provoked a crisis of rule. Revolutionary consciousness arose spontaneously in this situation, which actualised as it were the inclination to a revolutionary attitude. In the Revolution the feudal-aristocratic class was confronted by a class alliance under the leadership of the bourgeoisie. The threat to the Revolution and the internal contradictions of the class alliance brought a radicalisation. Given the material power position of the bourgeoisie, and the fact that the more radical revolutionaries were trapped in the confined positions of artisans and peasants, the bourgeoisie was able to monopolise the fruits of the Revolution for itself. A whole generation of students interested in politics and history – myself among them – was still marked by this interpretation of the French Revolution, even after its foundations had already been shaken by scholarship. So little now remains of this once dominant position that François Furet no longer even felt the need to mention his long-time scholarly opponent, Albert Soboul, in a recent

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<sup>2</sup> Soboul 1965.

presentation of the historiography of the French Revolution.<sup>3</sup> In point of fact, however, the questions posed by scholars studying the Revolution – including Furet himself – were still governed until very recently by the ‘social interpretation’. It is only in the last few years that historians have managed to avoid the deep gulfs drawn between the hostile camps. For the sake of simplicity, I shall avoid fine distinctions here and confine myself to sketching out the key points of departure of this criticism.

It bears first of all on the *preconditions* for the Revolution. Since the Marxist explanatory model explained both the content and the effects of the Revolution in terms of these preconditions, a criticism of the thesis that feudal relations still obtained necessarily shakes the basis of the social interpretation. From the time that Alfred Cobban<sup>4</sup> asserted that only insignificant residues of feudal lordship remained in the eighteenth century, that capitalisation was already under way before the Revolution and that this was in no way exclusively the work of members of the Third Estate but also of nobles, one side searched everywhere for feudal lords living off their seigneurial revenues, while the other side searched for nobles engaged in manufacture. After examples had been piled up for a good while, Régine Robin, in no way with the agreement of the entire ‘Marxist camp’, drew a courageous line under the question, by accepting the empirical objections to the thesis of feudalism and maintaining that, under the *ancien régime*, two modes of production had stood in a relationship of interaction.<sup>5</sup> The crisis-prone character of this social formation came to the fore when the state apparatus was no longer able to guarantee this contradictory connection. If this did not amount to a theoretical advance (as we have already explained), it did open up the Marxist interpretation to the results of concrete historical research. In the meantime, the dispute over the preconditions has reached the point that in the last few decades we no longer have the situation that Henri Doniol lamented back in 1876, since no one can say any longer that we know nothing about conditions in the year 1788.<sup>6</sup>

In the first phase of criticism, the Revolution still remained a revolution. It was simply explained differently, arising either from the frustration of efforts at social advance on the part of non-noble officials, or from a political

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<sup>3</sup> Furet 1988, pp. 979–97.

<sup>4</sup> Cobban 1955.

<sup>5</sup> Robin 1970.

<sup>6</sup> Doniol 1978, Chapter 1.

crisis. The attack on the content of the thesis of social-structural preconditions – and therefore necessities – initially opened the way to a renaissance of political history. This opportunity was used by François Furet and Denis Richet in their history of the Revolution published in 1965, a work that for several decades reclaimed for ‘event history’ the place that structural history had taken. Whilst the radicalisation of the Revolution was still explained in this work in terms of ‘circumstances’ (a much-used topos), i.e. the war that the Revolution’s opponents waged against the French Republic both externally and from within, Furet radicalised the political content of his interpretation in later publications. No longer were *circonstances* permitted this role. For Furet, the peaceful bourgeois revolution of 1789–91 was now the work of an enlightened élite, whilst the Terror offered proof that the nation should never have fallen into the hands of the radicals and the mob. What happened after 1791 was a ‘derailment’ of the Revolution, i.e. a departure from the path of peaceful improvement of the world that the nation had properly been prescribed. We can maintain today that though this interpretation led the attack on the social interpretation and also offered the opportunity of marketing scholarly legitimised anecdotal and biographical ‘stories’ of the Revolution that had long been banished to the popular sphere, it was not very significant in terms of genuine scholarly debate. It was countered by the far greater influence that Braudel’s version of modernisation theory and the entire *Annales* school exercised on the historiography of the Revolution.

It was not Furet’s thesis of the ‘derailment of the Revolution’, but rather Braudel’s interpretative model of long waves, that provided the guiding thread for scholars seeking a way out of the categories of the ‘social interpretation’. The model of long waves lacks any theoretical foundation. It asserts a particular structural effect of long-term mentalities and forms of everyday life, a lesser structural effect of *conjunctures* of economic and social change, and a comparatively minor effect of events. Influences are established between these levels, but there is as little theoretical explanation of their manner and form as there is for the development at the level on which things alter ‘only slowly’. The great advantage of this interpretative model, however, was that of shifting the Revolution to the topmost, i.e. least important, level, and in this way freeing it of a part of its mythic and emotive ballast. In this way, the long-term changes that had begun before the Revolution and continued after it came into view. Braudel’s concept of the continuity of mentalities, moreover,

also acted as a challenge. Michel Vovelle, for example, was long concerned with the question how the great change was prepared as a possibility in the slow change of life practices such as religious obeisance, and to what extent a breach then occurred that led to people's consciousness being different after the Revolution. He thus showed how the study of mentalities could serve to give the questions posed by the social interpretation a new formulation. In recent years, some students of mentalities have followed his lead, though by no means all.

Others confine themselves to the coarser aspects of slow developments. In this connection belongs the thesis of the fusion of élites, which has pervaded revisionist literature since Alfred Cobban, and has since been radicalised by Guy Chaussinand-Nogaret to the point that a society of notables supposedly arose not after the Revolution, but rather *before* it. The critique of works whose authors staunchly maintain that feudalism was abolished in France in the night of 4–5 August 1789, has thus been used to drag the French Revolution, which formerly presented an obstacle, back into modernisation theory. In this context, the problem of a theory of the Revolution is reduced to a mere problem of definition: what amount of change is described as a revolution, and what amount is not? (A similar procedure is characteristically applied to the Industrial Revolution.) In this way, the Revolution as 'event' is banished from the realm of scientific analysis and referred to that of 'revolutionary catechism', whether of bourgeois-idealist or Marxist provenance. Indeed, if we are to follow modernisation theorists, the transformation of forms of appropriation and production began long before 1789, and capitalism in France did not prevail either in 1789 or 1799. This is also the framework in which René Sédillot maintains, in his account of the Revolution in terms of profit and loss,<sup>7</sup> that the only kind of revolution that really counts is the Industrial Revolution, and, in relation to this, the French Revolution was rather an obstruction. This application of bookkeeping to the Revolution – instructive and useful as it may well be in certain details – still operates on that historical residue that survives here and there in French historiography as the 'birth of the French nation' and of 'bourgeois society', and whose abolition was made so much harder by the social interpretation. It seems that angry destruction of this

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<sup>7</sup> Sédillot 1987.

residue is needed before such simple questions as that of the actual changes in administrative practice can be raised. The Revolution also used to serve in a sense as a definition of the *ancien régime*, not just the way in which the peasants were exploited, but also the way in which the king ruled. The immense progress that has been made in recent decades in investigation of the *ancien régime* is one of the side-effects of the dissolution of the established 'truths' of revolutionary scholarship.

Another such effect is the Marxist debate over historical categories. Since the application of a de-historicised model of 'bourgeois revolution' to the events in France towards the end of the eighteenth century made the errors and weaknesses of such categories unavoidable, the critique of the 'social interpretation' of the French Revolution also offered the opportunity to elaborate theoretical concepts for historical-materialist analysis. It is no accident that the clearest critique of the theoretical foundations of the 'social interpretation' of the French Revolution has been provided by a Marxist.<sup>8</sup>

### **a. The rise of a revolutionary public**

Political events that lead to the collapse of a system of rule never come about without good reason. But reasons alone, no matter how pertinent they may be, cannot explain why, at a certain point in time, many people behave in such a way that the old forms of rule can no longer survive. Historians who are aware of this therefore generally combine analysis of structural preconditions for revolution with narrative. Such depictions of revolution have their convincing effect because in the 'drama of revolution' (Giddens) years and decades are as it were compressed into days and weeks. Events follow on one another blow upon blow, so the impression is given that a dynamic of revolution develops out of them alone. In actual fact, however, all that happens in this way is that the finalistic teleology of an 'intensifying crisis' – retrospective signs of which are always to be found – is replaced by the apparent causality of chronology. The 'straight history' that Betty Behrens recommends for the historiography of revolutions,<sup>9</sup> gives no answer as to why time suddenly condenses, and events occur that draw one after the other.

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<sup>8</sup> Comninel 1987.

<sup>9</sup> Behrens 1975, p. 164.

If a revolution actually develops from the 'good reasons' that underlie it, a specific structure is needed: a revolutionary public. Before a situation arises in which this public claims to serve as the instance by which rule has to be legitimised (irrespective of the existing structures of legality), very many people must first have had the courage to act and think in this way. Motivations of this kind are constituted not individually or *en famille*, but only in a common experience. The drama of a revolution does not come into being simply because people act out with and against one another the interests that they have long already had, but only by some or many of them rising 'above themselves' for a short while, i.e. above their former view of the world and their former interests. The question of the *structural* preconditions for a revolution is thus only incompletely formulated as long as it does not include the question of the preconditions for the rise of a revolutionary public.

This is already to say that even the very course of the revolution does not simply arise from previously existing interests – such as might be deducible for individuals by an analysis of their means (Soboul's view).<sup>10</sup> It arises, rather, from behavioural motivations that are constituted in connection with specific forms of the public sphere. If a bourgeois society is to emerge from the form of rule of the *ancien régime*, this requires abolishing not only the legitimacy of noble privileges, but also that of demands of spontaneous manifestation, in other words, an end to the form of motion of the revolution. In the following section we shall sketch out not the full history of the French Revolution, but only this structural change: the rise, change and abolition of a revolutionary public.

The revolutionary public of summer 1789 was not the culmination of a long-standing criticism of rule that then expanded qualitatively, but rather a result of the fact that there was not that kind of public in France until 1787, at least not as an element that regular forms of ruling practice had been developed to deal with. It goes without saying that the French crown, just like any other generalised power under the *ancien régime*, had to take into account opposition tendencies and regular resistance. But, from the start of the seventeenth century, this happened increasingly less in forms of an established public. The crown's most important sources of information about the actual state of the country, about popular moods and resistances, were not assemblies, but rather the *intendants* and *parlements*. No *états généraux* had been convened

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<sup>10</sup> Soboul 1979, pp. 172 ff. for the Girondist Isnard.



since 1614, and, from the end of the seventeenth century, sessions of the provincial estates came to an end in one *pays d'état* after another. After the 1720s, there were no longer any official assemblies of the nobility. These were still held only for the clergy, who decided on the level of their *don gratuit* to the crown, and on these occasions expressed either directly or – as in 1788 after the partial emancipation of the Protestants – by their refusal of the amount of tax demanded, the demands or protests of the senior clergy. Towns, corporations and provinces negotiated their privileges directly and in mutual competition. These competitive relationships to the generalised power, however, did not sum up to a comprehensive critical public.

It is true that the struggles around Jansenism provoked a tendency critical of the ruling power with a wide reach across the kingdom, but this remained largely confined to the better-off inhabitants of the towns. The same is true of the literary public of the time. As we have already explained, this last was relatively little developed in comparison with England, since publishers of periodicals drew their profit from privilege and did not seek to reach wider circles of readers by dealing with new subjects and reducing their prices. The membership of the *académies* remained similarly limited, as did to a lesser extent that of the Masonic lodges. From the mid-eighteenth century, newspaper reporting began to change, along with the social composition and social forms of learned societies, and in the 1780s the system of censorship broke down. The idea became widespread among nobles, the ennobled, and wealthy or at least not actually poor non-nobles, that the world could be improved if human reason was allowed to develop without hindrance. This was the context in which a multitude of improvement proposals arose, reaching from the new methods of agricultural production through to the regulation of midwifery, and it was likewise the context of the reform plans that the crown's advisers developed and in part even put into practice. In the latter case, this meant the crown acting 'tyrannically' against all who had a share in the royal governing power. The practice of rule that historians later described as 'enlightened absolutism' produced as much discontent in France as it did, precisely because such enlightened absolutism was 'more absolute' than the non-enlightened. The immediate effect of almost all of the crown's reform attempts was a bitter opposition from one corporation or other of royal office-holders.

During the last two centuries of the *ancien régime*, the political public whose demands the French crown had to deal with was above all its own government personnel. When the financial crisis reached such a level in the mid-1780s that the previous practice of attempting reforms and then withdrawing them either entirely or in part in the face of resistance from the *parlements* and other corporations could no longer be continued, the crown now sought to come to terms with its regular government public by a form of representation – still in the limits of the ‘political public’ of the *ancien régime* – that had not been made use of since 1626. An assembly of notables was designed to give the crown support against the *parlement de Paris* – exiled in 1787 – and the other *parlements*. What the crown saw as ‘public opinion’ at this time, and consequently sought to have represented by the assembly of notables, was socially very restricted. Nonetheless, all estates and nearly all provinces were represented, in other words urban office-holders, magistrates of the royal high courts, members of the higher clergy, the higher *noblesse d’épée* and the royal princes. Most of the notables came from provincial towns, and most but not all were either noble or ennobled.<sup>11</sup>

It is immaterial in the present context whether it could have been foreseen in advance that the notables could not be used for implementing the proposed reforms, and stabilising in this way the entire corrupt financial system – the structure of which had been made particularly clear by the spectacular bankruptcies of certain financiers. Even the resignation of Calonne, who had himself profited considerably from the existing financial system, and the appointment of Loménie de Brienne as first minister, need not be gone into here. Only two points have to be emphasised: first, that because the notables refused to act as instruments of the royal reform policy and demanded a reform of ruling practice that would involve the participation of a political public, the crown finally found itself forced to summon the *états généraux* – initially for 1792, then already for 1789; secondly, that the government received the agreement of the notables for the introduction of a new regional and local administration, and immediately started work on this.

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<sup>11</sup> Boshier 1989, p. 110.

The introduction of provincial and municipal assemblies, and the proclamation of the *états généraux*, marked the beginning of the development of that public out of which the Revolution arose. It was the French crown itself that set under way the process of constitution of a revolutionary public. This did not arise from the spread of particular demands, but rather from the linking of many particular disputes into a specific political context. From 1787, this process was regularly organised by the crown.

The first step was the introduction of provincial, departmental and municipal assemblies in the *pays d'élection*, half-heartedly and under the constraint of fiscal needs. Half-heartedly, since though representatives of the taxpayers were elected, the local seigneurs and priests were members of the municipal assemblies *ex officio*. Fiscally and administratively, because the new institutions could not even participate in the making of political decisions, but were seen as executive organs that would facilitate the operation of the *intendants* and make this more effective. The fact of election, however, unavoidably led to a politicisation of administrative practice, an attitude of expectancy that also spread to the *pays d'état*, and led there to the recall of the *états généraux* being demanded – in many cases, successfully.

As Rolf Reichardt has shown,<sup>12</sup> the reform of local administration was, in many respects, constitutive for the emergence of a revolutionary public. This was firstly because many hopes were bound up with this renovation. True, in many communities scarcely anyone was seriously interested, while in others it was reported that the elections had inflamed passions.<sup>13</sup> Reichardt cites as a typical phenomenon the expression of Abbé Périgord (later Talleyrand-Périgord): 'There is nothing that the provincial assemblies can not accomplish, and there is no healing renovation that can be brought about without them'.<sup>14</sup> Secondly, the administrative reform promoted the rise of a revolutionary public because it very quickly emerged that there were quite considerable differences as to what kind of reform should be effected. More than a few provincial nobles saw the new arrangements as an opportunity to carve out a commanding position for themselves, after advance into high positions in

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<sup>12</sup> Reichardt 1978, p. 87.

<sup>13</sup> Jones 1988, p. 27.

<sup>14</sup> Reichardt 1978, p. 87.

the army and 'administration' had been made much more difficult, and the respect of nobles who had nothing more to their name than their noble status had declined. A Paris police commissioner wrote in 1787 that ambitious people from the Second Estate viewed the innovation as an opportunity 'de faire enfin un personnage'.<sup>15</sup> According to Reichardt, there were many indications of estate conflict within the provincial assemblies, and he adds that experiences of this kind continued in the subsequent debates over the selection of delegates for the *états généraux* and the content of the *cahiers de doléances* that were to be drawn up for the king. Ultimately, the new institutions organised official advice sessions on 'public' affairs. Even if only a few people were involved in these, a far greater number gained experience in this way of a practice that was new to them, that of formal debate. More than a few of the names that appear in 1787 as members of the departmental assemblies are later to be found among the delegates to the assemblies of *baillage* which appointed the delegates to the *états généraux*. And more than a few were among the personnel of the administrative districts created in 1790 – corresponding to the structures that in 1787 were introduced for just two years.

On 8 August 1788, Loménie announced the convocation of the *états généraux* for 1 May 1789. The news took a while to spread in the conditions of the time, but by winter it had come to the ears of the peasants, who in many parts of the country rebelled against their living conditions. The winter of 1788–9 brought dire distress to very many French people. The early months of 1788 had been dry, then in July and August continuous rain had rotted the meagre grain crop before the harvest. The winter that followed was very cold. In many districts, the winegrowers lost three-quarters of their vines. Collective peasant actions became widespread from the end of the year. In several places, there was just a refusal to pay tax, but elsewhere hedges were torn down, mills and ovens destroyed, and landlords threatened. Even so, none of this was entirely new. What was new in the winter of 1788–9 was that this coincided with the announcement of the *états généraux* and with it the hope for possible improvement in conditions of life. This situation made the actions into forms of expression of a public that was more than local in scale, and it was seen as such by the lords as well as the peasants.

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<sup>15</sup> Cited after Reichardt 1978, p. 98, n. 151.

The agricultural crisis did not just affect the peasants, it raised the price of bread and subsequently had an effect also on the employment of artisans. Because the cold winter of 1787–8 had damaged almost all the mulberry trees in Italy, the French silk-weavers had no more work in the summer of 1788. In Lyon alone, 22,000 were unemployed. By the following winter, the crisis had reached almost all branches of production apart from luxury goods.

A campaign for ‘doubling’ steadily developed. In August, the *parlement de Paris* had announced that the *états généraux* would be convened according to the procedure applied in 1614–15. According to this, each estate would be equally represented, the estates would debate separately, and a single *cahier de doléances* would be compiled on the basis of the complaint books forwarded to them by the provincial assemblies. This *cahier* would then be sent to the king, who for his part would respond after the sessions ended – if, indeed, he responded at all. In autumn the demand arose that the immensely greater number who belonged to the Third Estate should be represented by at least a double number of delegates. Especially active in this campaign from November on was a political association known as the ‘Committee of Thirty’, though it very soon had more members than that. Similar debating circles also emerged in other towns, but the Paris circle not only included members of all three estates, but even some great nobles who were critical of the government. The Committee used the wealth and influence of its members, published and distributed a whole flood of propaganda material, and petitioned the *parlement*. The petition was banned, along with the further distribution of pamphlets, but at the end of December 1788 the royal council agreed to the doubling, following unrest in Paris – according to Jean Michaud<sup>16</sup> – and in January corresponding election procedures were announced. The demand for double representation of the Third Estate did not put in question the existence of the estates as such. It was simply a demand for reform. But it created none the less a political climate in which the text of Sieyès that was written as part of the campaign, though published only after its conclusion, very rapidly found an immense distribution. To the question he posed, ‘*What is the Third Estate?*’ the author answered, with propagandist effectiveness: ‘Everything.’<sup>17</sup> In the year of its appearance, Sieyès’s text already went through four editions.

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<sup>16</sup> Michaud 1960, p. 22.

<sup>17</sup> Sieyès 1982, p. 27.

Early in 1789, the political public was decisively expanded, both geographically and socially, by the assemblies that the crown convened to prepare for the *états généraux*. The privileged estates continued to meet separately for these *baillages*, to appoint their delegates to the *états généraux* and write up their *doléances*. Two things, however, were now apparent: that the members of the lower clergy were not prepared simply to accept their superiors as representatives – which Rolf Reichardt<sup>18</sup> sees as possibly a result of the experience of forms of representation in the provincial assemblies – and that both the First and Second Estates, besides *doléances*, the stubborn arrogance of which was shortly to be ascribed the rubric ‘feudalism’, also formulated demands indicating that there was a considerable basis for the strategies of rectification and rationalisation of rule in which the crown, even by pursuing them half-heartedly, had already come up against the structures of its own ruling apparatus. The nobility could see no society without privileges, but many nobles were ready to renounce certain of their privileges that stood in flagrant contradiction with the changed norms, or brought more hostility than direct advantage.<sup>19</sup>

There were different modes of procedure for the Third Estate. Besides the special regulations for Paris – where suffrage was on the basis of possession of either an office or a master’s credentials, or else a *capitation* tax assessment of at least 6 *livres* – there was a combination of corporate and numerical rules, and a system of election and debate with either two levels or even three (where several *baillages* were combined). Apart from in Paris, all free male taxpayers were admitted to the local assemblies. About a third of those allowed actually did attend.<sup>20</sup> The elections to the lower assemblies were held publicly, but secret ballots were held for election of the deputies to Versailles. A good half of the rural lower assemblies were led by local judges who exercised seignorial jurisdiction, or else by royal officials. This was expressed in the formulations of the *doléances* as well as in the fact that many of those attending profited materially from seignorial privileges. In some cases, prepared *cahiers de doléances* were distributed to the assemblies, in other cases, some of those present felt moved to subsequently compile additional *cahiers*

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<sup>18</sup> Reichardt 1978.

<sup>19</sup> Cf. the assessment of the *cahiers* in Chaussinand-Nogaret 1976, Chapter 8.

<sup>20</sup> Constant 1982, p. 717.

of their own. In the election of deputies in the *baillage* assemblies, the better-off and more educated had greater weight. In their compilation of the general *cahiers*, many grievances of the local peasants fell by the wayside. The assembly of the *sénéchaussée* Villefranche-de-Rouergue, for example, refused to transmit a grievance about the milling monopoly. Rights of this kind, so the delegates from the villages were instructed, were not a matter of privilege but of property, and property had to be respected no matter who owned it.<sup>21</sup> Even so, half of the general *cahiers* demanded the abolition of seigneurial jurisdiction, and over half of them the abolition of seigneurial taxes.<sup>22</sup> It has been contested whether these and similar demands heralded the events of the following summer, after George V. Taylor published in 1972 his contention that the *cahiers* did not have any kind of revolutionary character, since even Enlightenment ideas are hardly present in them. We need not go into this debate here. The public that produced these *cahiers*, however, was no longer that of the *ancien régime*. And this was so for reasons based in the specific structure of the *ancien régime* in France – I return here to the historical dialectic with which I began this chapter. One can scarcely imagine that an English peasant in the late eighteenth century would be unaware what a petition to Parliament meant. But, in France in 1789, it is recorded in many districts that peasants thought that simply recording their grievances in the *cahier* meant that these would automatically be remedied. They went home believing that they were already free of seigneurial taxes, nobles' hunting rights, and other exactions. They behaved accordingly until they were instructed differently. It was unclear to many that this was supposed to be no more than a survey of opinion. After all, in living memory there had never been a king who wanted to know what most oppressed ordinary people. How could they assume that this great exercise would not have far-reaching results?

Taylor<sup>23</sup> and Furet<sup>24</sup> have already noted how the stage structure of the assemblies operated as a 'revolutionary seminar' for the delegates who were eventually sent to Versailles. For an interpretation that would understand the events of summer and autumn 1789 as the work of a peaceful and educated élite, the preparation of the *états généraux* plays a particularly significant role,

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<sup>21</sup> Jones 1988, p. 63.

<sup>22</sup> Weitman 1968, cited after Jones 1988, p. 67.

<sup>23</sup> Taylor 1972.

<sup>24</sup> Furet 1980, p. 56.

though this is not to be gainsaid even in the context of a different interpretation. It should be borne in mind, however, as Ran Halévie points out,<sup>25</sup> that around three-quarters of the delegates of the Third Estate did not take part in elaborating the new constitution and new administrative structures when the *états généraux* was converted into the Constituent Assembly. Halévie assumes that they were appointed because the decisions of the *baillage* assemblies still expressed the clientele structure of the *ancien régime*. Yet Halévie himself emphasises the break that this public made with the established structures of the *ancien régime*. Thus it was individuals that were elected – sometimes after debate! – rather than corporations, and not even the spokesmen of factions; factions relating to the practice of generalised rule were unknown in France, precisely because there were no structures of regular public participation in this practice. Those who stood for election, or at least some of them, represented views that had long been expressed in reading societies or other debating circles, and found broad distribution in the publications of 1788–9. To many of these deputies, moreover, it must have seemed nonsensical that, after all this expenditure, they were simply to be sent to Versailles on the basis of traditional mandates – as ‘emissaries’ – and then to return home. After all these great words, they were to be returned to the situation of 1615, and after such a festive detour, spend their time in Versailles debating on what points the king could most humbly be beseeched.

Courage was needed by all who set this development in motion, if it was not to be restricted in this way. But when they found this courage, they acted in the context of a political public that had developed in March and April of this year.

If the announcement of the *états généraux* in 1789 had a different effect than in 1615, this was not only due to the specific election procedure and the structural crisis of generalised power, but also to the – above mentioned – actual generalisation of rule, the improved possibility of distributing information and the content of contemporary debates over ‘good order’. The organisation of a political public, however, was not least among the structural preconditions for the Revolution. Altogether, over 100,000 men took part in the election of deputies to the *états généraux*, some 60,000 of these being members of

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<sup>25</sup> Halévie 1988, p. 83.



the Third Estate.<sup>26</sup> It would be risky to estimate how many of these latter had taken part in the assemblies. It will suffice here to establish that, in March and April 1789, a large public consultation of the king's subjects was held. This was directed at 'everyone' – excluding women, servants, the unfree, the mad and the very poor. But even the grievances of the excluded were sometimes made known in the spring and summer of this year. There appeared *cahiers* of the 'fourth estate' and of 'women', no matter who their authors were. Many of these *cahiers* make abundantly clear the structural change in the public sphere. They are directed no longer at the government, but rather at the political public.

In June and again in August, two decisive new structural features of this public became clear: the public demonstrations in Versailles and Paris, and the loss of the power basis that could have hemmed it in. Jean Michaud<sup>27</sup> pertinently indicated the importance of the former. According to him, as early as June 1789 there were debates in Versailles in which a wide public took part. Inhabitants of the town were present, but many came each day from Paris, some in carriages but most on foot.<sup>28</sup> The crown sought to obstruct this expression, but the guards regiments did not stop anyone from arriving in Versailles. The attendance at these assemblies was not just a passive audience, but, rather, an element of the social context in which the delegates developed their arguments. This manifest and active public created a framework of thinking and action in which ideas previously unheard were expressed for the first time, even if they had already been thought. This meant, however, that even the delegates were no longer mere bearers of those interests that they and their electors would have recognised as their own some months or even weeks before. If the delegates had just soberly considered their material interests, they would scarcely have decided to attack the foundations of former legality – in the revolutionary vocabulary, the 'abolition of feudalism' – that they decided on the night of 4–5 August 1789.

True, news of the peasant disturbances<sup>29</sup> in various districts had given new urgency to demands already contained in the *cahiers*, and led many to consider whether some of their former privileges might not have to be sacrificed;

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<sup>26</sup> Halévie 1988, p. 83.

<sup>27</sup> Michaud 1960.

<sup>28</sup> Michaud 1960, p. 74.

<sup>29</sup> Freddi 1985, pp. 44 ff.

the session of 4 August had also been previously discussed in the Club Breton. But no one could have foreseen that such a large number of the pillars of the *ancien régime* would be overthrown in a single sitting, lasting from eight in the evening to two the next morning, to cheers and acclamation. It was quite in the style of the time – precisely when Mesmer's electrical apparatus had become the fashion – that Mirabeau told his voters that the process was the result of an electrical frenzy. Without a break, one electrical shock followed another in the Assembly.<sup>30</sup> It was one of those situations in which speech is no longer just a means of expression, but a political event that creates facts. When the deputies woke up from their sleep and considered the reaction of their electors, this intoxication evaporated. As the results of the session of 4 August had to be made into formal decisions in the course of the following days, attempts were made to tone them down. Thus 'feudal' dues were still 'abolished', but only in so far as those who had previously had to pay them now received the right to buy their release from them. Other things, however, such as the purchase of office and the right to inherit offices, the privilege of multiple sinecures in the church, the nobles' hunting privileges and the tax privileges of towns – privileges that had been hardly won and bitterly defended – were abandoned without contradiction to the applause of the assembly. This 'noble rush of joy' (Mirabeau) developed in a public that had been revolutionised in the process of its constitution.

The mode of operation of this new social organ can be seen for example in the report of an English doctor. Dr Rigby had arrived in Paris in July 1789, and explained in a letter to his family of 11 August the happenings in Paris and Versailles:

We had not been long in Paris when we found that the Palais Royal, a large square lately built by the Duke of Orleans, was the place where all political intelligence was to be obtained; for it was here all persons assembled who took a part in the great political drama – here that political questions were first discussed – and popular resolutions formed and arrangements made; here, as well, that the earliest communications from the National Assembly, which holds its sittings at Versailles, twelve miles from Paris, were received, and that the printed debates of the Assembly were first circulated....

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<sup>30</sup> 5–7 August, in Markow (ed.) 1982, Volume 2, p. 95.

The address of the Assembly to the King had just been read when we entered the square, and also the spirited debate on the King's answer. Mirabeau had been distinguished in both of these, and especially in the latter; the whole place resounded with his praise, and the warmest tribute of applause was paid to the Assembly for its firmness.<sup>31</sup>

Rigby mentions an important innovation in this letter. Already in the first few weeks of the Revolution, not only had the number of press organs dramatically risen – a total of 135 new papers were established in Paris alone in the course of the year – not only were new leaflets and posters printed, but the beginning was made of printing at night so as to appear on sale the next morning.

During the Revolution, the purchasers of printed matter changed, and with them the marketing strategies of the publishers, but what changed above all was the relationship between press and readership. Because press and public merged into a unity of action, the least events were publicised, and it was left up to readers to assess their significance.<sup>32</sup>

News spread throughout the kingdom by way of the press, reports of deputies, and chance sources of information. This does not mean, however, that the public for social transformation was constituted on the basis of Versailles and Paris. It was, above all, in the countryside that the hopes that had arisen in the previous winter and new year developed from rumour and as a continuation of the resistance of the winter months into a dynamic that was not independent of the centre, but had its own autonomy. Differently from in the towns, the public in the countryside initially followed quite traditional forms. Even the Great Fear, which led peasants in the Franche-Comté, and then in adjacent regions to the south-east and south-west, to take up arms in late July and early August, was nothing new. This time, however, peasants feared an aristocratic plot – after rumours reached them of the beginnings of emigration – by which all the changes that had been won or were still hoped for would be brought to naught. The Great Fear is also indicative of the structures of the public sphere, showing how in summer 1789 many peasants still received news of the events in Versailles and Paris initially by way of rumour. The revolutionary public was constituted in a variety of different forms.

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<sup>31</sup> Rigby 1880, pp. 36–38.

<sup>32</sup> Rétat 1988, pp. 153–66.

Everywhere, however, this was still without barricades. Paris had seen barricades in 1588, but in 1789 these appeared only for a few hours on 13 July. This fact is immensely significant, showing how 'the public' could 'make' the Revolution because the old system was undefended. This had held already in the spring and summer for the peasant resistance and bread revolts, and in summer and autumn it held for the foundation of the National Assembly and the municipal revolution in Paris. More than a few historians have been led by this to conclude that revolutions led by the bourgeoisie are overwhelmingly peaceful, while those forced by the popular masses are violent. For François Furet and Denis Richet, the period from 1789 to 1791 saw the victories of the eighteenth century, by which they mean that the liberal revolution was the work of an enlightened intellectual élite. Only the popular revolution of 10 August 1792:

and the war against Prussia and Austria had brought a temporary halt to the great advance of the bourgeoisie that was eventually to lead to the peaceful [sic] liberalism of the nineteenth century.<sup>33</sup>

Even if we leave aside here whether the so-called *journées* of the Revolution, the threat and sometimes reality of violent action in which many people participated, were indispensable elements of political development or not, it need not be underlined here that the 'liberal revolution' was able to remain peaceful only because it did not come against violent opposition. The debates of the *Constituante* could abolish the ancien régime because the streets belonged to the revolutionary public. This predominance did not need to be either won or defended on the barricades.

The Revolution was made at least as much by the people on the streets as it was by the deputies in their assemblies – not to mention the soldiers of the king, in so far as they did not obstruct it. Some of the deputies promoted it directly, by admitting the public into the *états généraux* and the *Constituante*, by taking part in the storming of the Bastille, distributing leaflets to the regiments and other acts. In July, the crown ordered 17,000 men of the regular army to Versailles. It may be that the king refrained from using them because he was generally hesitant in the use of force.<sup>34</sup> But this particular restraint was

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<sup>33</sup> Furet and Richet 1970, p. 147.

<sup>34</sup> According to Boshier 1989, p. 131.

actually suggested to him. On 16 July, the minister of war informed the king that senior officers advised against the use of the regiments, as they doubted their loyalty. This concern, in the view of Samuel F. Scott,<sup>35</sup> had only a partial basis in fact. In this case, the most important reason for the refusal to defend the old order by force of arms lay in the structure of the army, something we have already discussed above. Since the officers actually stayed with their regiments only very rarely, and knew nothing of the soldiers who served under them, they could only speculate as to their behaviour. It was decided on 16 July that most of the regiments should be sent back to their garrisons. In the main, those kept in Versailles were the guards regiments, which were manned overwhelmingly by foreigners.

Since the king no longer dared to rely on the army for support, he had in practice no power independent of the *Constituante*. The personal character of the royal power was thus already abolished *de facto* at this point in time. The constitution subsequently did no more than legalise this situation. To avoid attempts to revise this state of affairs, the National Assembly decided in August that officers as well as all other soldiers had to swear an oath to the nation, the king and the law, and additionally swear never to use their soldiers against the civilian population unless they were ordered to by the representative organs of the people. In October, a commission began work on the reform of the army.

## **b. The struggle for a new order**

The years of revolution saw struggles over the determination of the constitution, over electoral laws, the redemption of feudal dues, the right to pray to the Virgin Mary and the way in which the nationalised possessions of the church and emigrants were to be transferred to private individuals. There were also bitter conflicts over the covering of paper currency, as the constant new issue of *assignats* resulted in serious devaluation, and finally the convertibility of this revolutionary currency into gold and silver. According to Ferenc Fehér, the whole history of the Revolution can be written as a history of the

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<sup>35</sup> Scott 1978.

*assignats*.<sup>36</sup> Moreover, all these struggles took place in the context of war, both an external one and at times also a bloody and gruesome internal one. We will not deal with all this here, but only a single cross-section of the process by which the rule of the *ancien régime* was revolutionised into a bourgeois state and bourgeois society: the struggles over the structure of the political public. This aspect, however, is central to the constitution of bourgeois state power, more important indeed than any constitutional provisions. For every form of bourgeois state power is based in a concrete form of political public, even if this is apathetic, intimidated and institutionally quite disempowered.

Only part of the population were active in the revolutionary public. They were overwhelmingly male, in the electoral assemblies and later on in the sections they were chiefly middle-aged, while on the streets and above all in the big towns they were younger. This does not mean that only these people lived the Revolution, nor that they were alone in experiencing that it was possible to implement a political practice that many people desired. Even those who had not read Rousseau and had not even heard of the *Encyclopédie*, could come to the conclusion from their experiences in 1789 that disputes between reasoning individuals provided the best possible basis for deciding political questions. The good of society, according to this theory of the public sphere, had its starting point in individuals linked with one another by communicative structures not dominated by power, and public opinion should not be a component of rule – as it was under the *ancien régime* – but rather an emancipatory instance of society that is critical of any rule.

One of the structural contradictions of any kind of politics aiming to stabilise the results of the Revolution was contained in this assertion. For a structure of the public sphere that ascribed reason to ‘all’ – though for the *lumières* themselves, as is well known, it went without saying that those ‘without a will of their own’, the economically dependent, and thus women, were provisionally excluded – and thus allowed ‘all’ to participate in the public processes of opinion formation, contained a revolutionary moment. Taken to its logical conclusion, it led at the very least to Thomas Jefferson’s postulate of the right of each generation to its own revolution – thus to the constant potential instability of the order to be newly established. The public was indispensable as an

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<sup>36</sup> Fehér 1987, p. 30.

instance of legitimisation, once the divine legitimisation of personal rule had been challenged by revolution, but it still had to be made into an instance of order. Today this is effected, as Jürgen Habermas has shown,<sup>37</sup> by the public sphere that has acquired this legitimising character being, to a large extent, reduced to the form of existence of a legal fiction. In the process of constituting a new political order in France, on the other hand, the dispute over concrete forms of public was unavoidable, because this new order owed its existence to a temporary coincidence between the reality and the theory of the bourgeois public.

Already at this time, however, the fundamental contradiction between emancipation and order was contained both in conceptions of the public and in its practical forms. For this reason, all struggles over the further development of the Revolution and the new society were, at the same time, struggles over the structure and function of the public. The political strategies developed in this context were partly formulated in these terms and reflected theoretically, and partly developed as forms of collective practice; their strategic character cannot be deduced from formulations of conscious intention, as it was brought into being by collective practice and completely contained within this.

If we treat specific political practices with the analytical instrumentarium of formal typology, leaving out of consideration for the moment both the social contents of the politics pursued at the time as well as the temporal overlappings, coincidences and contradictions, there are three forms of public sphere and corresponding strategies towards it that can be distinguished in the era of the Revolution and its bourgeois consolidation, each of these dominant at different times. This first of these is the public sphere as form of motion of a self-revolutionising society. This characterised the summer of 1789 and then again the beginning of the movement of the *sans-culottes* from summer to winter 1792, and is also to be found in the political practice of counter-revolution. For the latter developed domestically largely independent of the strategies of émigré circles.<sup>38</sup> In its early phase, at least, the forms of counter-revolution were similar to those of the revolutionary public. It organised the commonality of all those who stood for the just cause. Later on these forms only per-

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<sup>37</sup> Habermas 1989, Section 24.

<sup>38</sup> Mitchel 1973, pp. 231–60.

sisted in the *chouannerie*, those revolts in which the peasants expressed their estrangement from the Revolution that they had initially welcomed.

The second type of public sphere is that of an institutional separation of the public legitimised for political decision. At issue here are the model and strategies of representation. In the French Revolution, this type of public sphere was linked with freedom for a literary public (only restricted in emergency conditions), and with systematic control if not oppression of any spontaneous public manifestation of the common people. This type of public sphere was institutionalised in the constitution of 1792; it dominated Thermidor and especially the Directory.

The third form of public sphere, that of the Jacobin dictatorship, arose historically by a spontaneous and manifest public being renewed as a form of motion and instance of legitimisation. This public, developed in a revolutionary sense by the *sans-culottes* and Jacobins, was already different in Year II of the new calendar as far as its political content was concerned, although its *forms* persisted unchanged. The public sphere developed here from an instance of criticism into an instrument of social control. This – revolutionarily motivated – self-disciplining of the public deprived spontaneous expressions of their legitimisation. The public could therefore be interpreted as an organ for acclaiming a rational politics developed *in its name*, and thus once more became a component of rule – if with a different content from under the *ancien régime*. Even Napoleon oriented himself to this kind of disempowered public, as long as he still deemed it necessary to have his policies acclaimed.

The forms of public sphere sketched out above do not appear as pure types in the concrete struggles of the revolutionary era, but their contours are not hard to discern. They were even regularly staged in the revolutionary festivals. Many of these developed spontaneously, such as the jubilant enthusiasm of some of the *journées*, the evening dances in the city squares on the Feast of the Federation on 14 July 1790, or the banquets that the *sans-culottes* held in the open air in Year II of the new calendar. But, alongside these, there were carefully staged festivals expressing the victorious ‘interpretation’ of the Revolution.<sup>39</sup> Varied as these festivals were, they had two notable common features. None of the official stagings, no matter how theatrical these were,

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<sup>39</sup> M. Ozouf 1976, p. 32 & *passim*.



involved masks or the kind of theatrical machinery that was commonplace at that time; and they equally lacked any carnivalesque forms. The object of celebration was not a world turned upside down, but rather a new world, and the organisers were, as Mona Ozouf writes, regular 'enthusiasts of pure form'.<sup>40</sup> The common people were also absent from all official stagings, being simply ascribed the role of audience. The way that this happened regularly displayed the strategy towards the public sphere that was dominant at the time. We shall now present the struggle for the new order only in respect to this single structural element of the new society, the political public.

Let us start with the strategy that was oriented to representation, to control of spontaneous manifestation and to a market-bound structuring of the literary public. This was already an element of the constitutional process of a revolutionary public, and did not develop only when it was a question of securing the results of the Revolution. For the exclusively emancipatory content of a bourgeois public that is assumed by theorists, an opinion directed with the 'whole people' against the former ruling structures, is confined almost entirely to political literature. In their political practice, the bourgeoisie only lost sight for a brief moment of the need to keep members of the lower orders under control, even in the turmoil of revolution. When a bourgeois militia was established in Paris on 13 July 1789 – the first new institutional creation of the Revolution – this was designed to serve as protection against not only the king's forces, but also unruly elements in the city. The beginnings of the National Guard were a structural element of the – revolutionising – public of Paris.

To be effective, this public used the electoral assemblies that had been created for the appointment of the *états généraux*. One of these assemblies decided only a week after the storming of the Bastille that heads of households, merchants and guild masters should be asked to maintain good order among their subordinates, and prevent them from the 'dangerous curiosity' that had gripped them in the days of unrest.<sup>41</sup> Many other assemblies took the same decision a short time later. Right from July 1789, therefore, the question was not only to abolish the old order, but also to keep the public use of reason within bounds, if need be by way of armed force. It was for this reason that

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<sup>40</sup> Ozouf 1977, p. 325.

<sup>41</sup> Rose 1983, p. 55.

the struggles over the composition of the National Guard were at least as decisive for the course of the Revolution as were the debates over the formulation of constitutional principles.

On 26 July, it was decreed that workers and labourers without an established residence, as well as those 'whose work society cannot do without', were no longer to be accepted in the National Guard. Twenty Paris districts protested, but in vain. Though the regulation was applied differently in different districts, the social composition of the National Guard underwent a change. To make it an instrument for the protection of property and against possible continuation of the Revolution, the attempt was made to strengthen the leadership's power of command over the new force, and to restrict the influence of the Paris districts. After long and bitter disputes, this was achieved in July 1790 by the administrative combination of several districts into sections. From December 1790, only 'active citizens' were admitted to the National Guard, and the poorer strata excluded. In 1791 it was decided to exclude also suspicious and ill-natured characters. At the same time, active citizens could fulfil their obligation by hiring substitutes. The number of economically dependent and politically inactive members accordingly grew.

In a relatively short time, the National Guard was changed from the organisation of a revolutionary public to the instrument of a new order. In 1791, a law was passed that legalised the use of the National Guard against popular gatherings. The National Assembly began the debate on this law after a mass of people had forced the return of the royal family to Paris (and with it that of the National Assembly itself). It was decided that the order to fire could be given if a crowd did not disperse after being ordered three times to do so.

The first use made of this permission was on 17 July 1791, when the National Guard fired on a crowd demonstrating for the abolition of the monarchy. 'The Third Estate that possessed weapons, wealth and the National Guard fired on the Third Estate that had no weapons, on the little people,' in the words of Marcel Reinhard.<sup>42</sup> In fact the 'little people' had been already banned in 1791 from carrying weapons, from combining for the purpose of strikes or the representation of occupational interests, and from submitting collective petitions. Nonetheless, the principle asserted by the Revolution, that the public was the legitimising instance of politics, was not yet impugned. In order to

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<sup>42</sup> Reinhard 1971, p. 211.

bring this into line with the political aims of those represented in the National Assembly, the attempt was made to exclude certain *contents* from the public sphere, by banning certain of its *forms*: the foundation of political clubs and popular associations was controlled, connection between such associations obstructed, and the distribution of their publications banned. Above all, however, 'the street' was to be excluded from the public functioning as basis of legitimacy; this was the core of the strategy for the public that stretched from the first Legislative Assembly via Thermidor to the Directory.

Already at the first of the great revolutionary festivals, the Feast of the Federation (as it was later known) on 14 July 1790, which, according to Marcel Reinhard, was the 'most unanimous and enthusiastic one of the Revolution',<sup>43</sup> not only was the union of the National Guards and regular soldiers celebrated, not only the 'coalition of towns' and the absence of the nobility, but, in a certain sense, also the absence of the common people. In the exceptional cases when these were invited to receptions for the soldiers, special mention was made in the reports dispatched to Paris.

Strategies towards the public sphere were sometimes not only staged but actually presented architectonically. The above-described participation of 'tribunes' in the debates of the National Assembly was favoured by the proximity of the tribunes to the presidium and speakers' podium.<sup>44</sup> When the National Assembly moved to the Tuileries in 1791, care was taken to make this participation more difficult. The miracle was now performed, as Robespierre expressed it in his speech on 10 May 1791, of

excluding the public by admitting them: arranging things so that they were allowed to be present at the sessions yet could hear nothing of them apart from in the small section that was reserved for 'distinguished' individuals and journalists. [He continued:] I believe for my part that the constitution should not restrict itself to decreeing that the sessions of the legislative body and the constitutional authority are held in public; it should not refrain from the issue of how to give access to the largest possible public, and should therefore forbid the deputies from in any way influencing the composition of the audience and arbitrarily restricting the places that the people should

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<sup>43</sup> Reinhard 1971, p. 181.

<sup>44</sup> Reinhard 1971, p. 168.

occupy. It has to ensure that the legislature is located in the midst of an immense audience and does its work under the eyes of the greatest possible number of citizens.<sup>45</sup>

At the local level, the structures of the public sphere developed in different ways. The greatest difference, however, was not that between the particular urban publics but rather between the urban and the rural public. For the population of the towns, the Revolution was an unquestionable fact, whether it was welcomed or condemned; but the situation for the peasants was less certain. After the harvest of 1789, when the collectors of tithes made their usual rounds, the seigneurs demanded not only their rents, but also 'feudal' dues and in many cases even the customary labour services. In March 1790, the National Assembly made it clear that tithes for 1789, in so far as they had not yet been paid, were still due to their old owners (the tithes had in many cases been farmed out to laymen), while those for 1790 were to be paid to the urban authority, and, from 1791, to the owner of the leased land; it thus became clear that the 'abolition of feudalism' had taken place only on paper, as far as the peasants were concerned. Even before the introduction of the 'new tithes', certain landlords had had contracts drawn up to confirm that the former tithe would in future be added to the rent. Peasants who tilled their own land were not burdened by the new tithes, but in those large regions, especially in the south-west, where many peasants were sharecroppers and the 'tithe' – the level of which did not correspond to its name, but varied regionally – was especially high, August 1789 changed scarcely anything in their material situation. In 1790, moreover, it was made known that the redemption of obligations such as *lods et vents* and *cens* would require a payment some 4 to 5 per cent above the former market price for these rights, and would thus be impossible for the poorer peasants, especially after two devastating harvests. There were, in fact, scarcely any redemptions. It was only on lands taken over by the state and not yet resold that certain rights were redeemed, since the state, unlike private proprietors, accepted payment in instalments.

Peasants everywhere made use of the new opportunities. In autumn and winter 1789, they sent countless petitions to the National Assembly in which they complained that seigneurs were not respecting the abolition of

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<sup>45</sup> Robespierre 1971, pp. 425 ff.

feudalism. When municipal authorities and new courts were established, the peasants sought to have decisions made in their favour by village bodies and legal verdicts. In village politics, the distinction between active and passive citizens did not play a very great role, since either almost all inhabitants were taxpayers, or this distinction was applied rather casually.<sup>46</sup> At the same time, traditional means were deployed and traditional forms practised. There was refusal to pay or at least delays in paying. Peasants challenged, for example, that their obligation to hand over part of the harvests obliged them to actually deliver it to the lords. The lords should come and collect their share if they wanted it. In this way, the practice already widespread before the Revolution, of demanding that the lords produce documentation of their entitlement to the rights they claimed, was not just continued but immensely expanded. In many places, peasants now demanded that the claim to feudal dues be backed up by documentation going back before 1500, or, at the very least, before 1700.<sup>47</sup> Peasants in many parts of France also resorted in 1791 to the tradition of 'castle visits'. From January 1790, for example, Breton peasants in groups of between 300 and 500 visited a total of some thirty country seats, seized and destroyed documents, threatened the proprietors and demanded of some of them that they should sign declarations renouncing their dues. A year later, the aims of the peasant *chouannerie* had partly altered. They were now directed not just against the seigneurs, but against all exploiters and forms of exploitation, against speculators, enclosures, and the sale of national goods in such large parcels that the poorer peasants were excluded. These spontaneous partisan initiatives, with a limited violent character, were still not directed *against* the Revolution, but rather against its social limits. Peasants throughout the country refused to understand the laws passed between 5 and 11 August 1789 in the sense that had been intended, as an abolition of feudalism designed to have no negative material consequences for the landowners.

Until summer 1792, the peasant actions had two principal results: in many places the National Guard of the nearby towns was dispatched against them, and in many regions the National Assembly sent out emissaries [*représentants-en-mission*] who informed themselves of the situation and sought to end the revolts by persuasion. This did not succeed, but the peasants had no greater

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<sup>46</sup> Bois 1960, pp. 629–34.

<sup>47</sup> Jones 1988, p. 108.

success in their attempts to really and truly abolish feudalism. It was only after the urban (!) revolution of August 1792 that regulations were made that met a considerable part of the peasant demands.

The preconditions for a renewed revolutionising of the public sphere – the flight of the royal family, the start of the war, Jacobin agitation, problems of food supply and mobilisation – we will not go into here. We shall once more only mention certain key features of the public at this time. In the weeks and months after 10 August 1792, the social limitations on the political public that had been established after 1789 were abolished in many places. Public demonstrations once more became the legitimising and deciding organs of a revolutionary public. After the abolition of the monarchy on 21 September and the start of the revolutionary calendar which was subsequently dated from the following day, a form of public sphere arose whose many new features can be summed up in a single one: the public of Years I and II of the new calendar revolutionised the character of petitions.

Under the *ancien régime*, petitions had been requests addressed to the holders of personal rule or their representatives, which by this very act confirmed their position – at least in principle. The petitions made in 1789 and until the fall of the monarchy had a similar character, especially for the peasants. If villagers informed the National Assembly that the legal implementation of the ‘abolition of feudalism’ had not led to an improvement in their living conditions, they learned only too quickly that – just like the conditions of their material reproduction – their exclusion from political discourse remained fundamentally unchanged. They were still forced back on petitions to authority, or to the practice of revolt. It was only from autumn 1792 – and still more clearly in the course of 1793 – that petitions lost this character of requests and became a form of social communication among citizens. They served to inform the governing bodies of the claims of self-conscious citizens of both sexes. At the same time, petitions provided the means for at least partially transcending the continuing social and sexual restrictions on participation in institutionalised political discourse. They were the regulated form in which the demand was expressed that every interest should have the opportunity to seek legitimation before the court of public reason.

The petitioners now were not humble subjects, but the sovereign people. Petitions from popular associations and Jacobin clubs were the functional forms of a direct democracy. There were mass petitions from large meetings

and petitions of particular working men and women who expected that the institutions of administration and government would resolve labour conflicts. This form of behaviour was infectious.<sup>48</sup>

Women, too, self-consciously obtained a hearing in this way. Though even the republic only granted them the status of subjects of civil rights, and they received nothing of the status of *citoyenne* but the name, many women acted as if they were entitled to participate in political discourse on a free and equal basis.

The women workers of the spinning factories, for example, applied to the *sociétés populaires* of the sections Marat and des Châliers for support against the town officials who wanted to cut their wages. These women described such plans as 'very counter-revolutionary'.<sup>49</sup> In Pluviôse of Year II (February 1794), an inspector was reminded that he and his kind had been appointed by the sovereign people, and were simply its agents. They found it quite remarkable that the sovereign people should lack everything, while its agents were well provided. In one of these debates, a young girl stood up and read the *Déclaration des droits de l'homme*. The women workers that Dominique Godineau discusses here<sup>50</sup> experienced and formulated their (material) interests in connection with the publicly legitimised claims of free citizens.

There was a time, in the course of the French Revolution, when – if only for a part of the population – their vision of the world and of their own life changed through participation in a collective practice of emancipation. The political precondition for such experience was the reality of counter-revolutionary threat. In this situation, the public sphere changed from a legitimising instance into an organ of action for the defence of the Revolution. More or less spontaneously, at least unforeseen in the constitution of 1791, citizens' associations took over functions of government, while at the same time the army changed from an instrument of policy into an institution whose members co-determined their own political and military practice. Structural preconditions of power politics arose in this way for a utopia of direct democracy.

The revolutionary development of this public was carried forward by the Jacobins and *sans-culottes*. It appeared for a time as if the political radicals

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<sup>48</sup> Jones 1988, p. 108.

<sup>49</sup> Jones 1988, p. 99.

<sup>50</sup> Godineau 1986, p. 107.

from the upper-middle class and the activists from the lower-middle class would merge together into a single political movement. The Montagnards who pursued Jacobin policies in the Convention drew their support from the popular movement; the membership and procedure of the Jacobin clubs, in which radicals had gathered for political debate since 1789 (at that time still relatively moderate), were now democratised. Thousands of new clubs and popular societies were established after August 1792, in larger and smaller towns and – especially in the south – even in villages.<sup>51</sup> Many of these associations had no more than a handful of members. Yet the public of these citizens' associations was very much greater than their number of some 26,000 would suggest.<sup>52</sup> Their debates were open, and peasants seem to have attended this spectacle in the course of their trips into town, along with the cattle market and a visit to the inn.<sup>53</sup>

The clubs and popular societies undertook the distribution of leaflets and the organisation of speeches in villages and in the army. They propagated and organised the raising of volunteers, and propagated and implemented de-Christianising.

Early in 1793, the importance that the citizens' associations had acquired for the government of the country was recognised in the decision that they would subsequently receive free of charge the *Bulletin de la convention*.<sup>54</sup> On top of this, the government offered financial support to even those publications that reached only a numerically limited readership. The structural significance of the market-bound organisation of the literary public, which in practice, despite the formal freedom of the press, made the publication of certain contents difficult, as it did the participation in the public space of readers who were literate but without means, was reduced in this phase of the Revolution. In so far as the social difference between the literary and the manifest public was reduced in this way, the impression is strengthened that what was at work here was a social movement cutting across social divisions. On top of this, the Jacobin movement was initially in a position to overcome the traditional conflicts of interest between town-dwellers and peasants. Particularly

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<sup>51</sup> Boutier and Boutry 1988, pp. 365–98.

<sup>52</sup> Mousnier 1969, p. 121.

<sup>53</sup> Gervais 1986, p. 428.

<sup>54</sup> Boutier and Boutry 1988, p. 379.



in the south, peasants not only were agitated by Jacobin emissaries, but their movement was regularly integrated.

The Jacobin movement was needed for the defence of the Republic. This meant that mass levies were implemented and supplies procured, by force if need be; potential allies of the external enemies were hunted down, and the provisioning of the population regulated by the fixing of prices. Differently from in 1789, the radical popular movement of 1792 was directed no longer against the 'aristocrats' but against all the rich. When the words of the traditional *Te Deum* were replaced in one of the countless political *chansons* of that year by a hymn of praise to the 'maximum' (the controlled price of basic foodstuffs), and the wish expressed 'que dure le maximum *per saecula saeculorum*',<sup>55</sup> it was a new order that was being praised in the midst of the wartime emergency.

The revolutionising of the public paved the way for institutional changes: the abolition of the distinction between active and passive citizens, the decentralisation and deformalisation of structures of decision by the validating of sectional assemblies and popular societies, as well as the renewed permission to present mass petitions to the National Assembly, now renamed the National Convention. All these changes were carried through by a strategy of comprehensive politicisation. No one was to be allowed to show indifference towards the Republic. This strategy provoked an expansion of counter-revolutionary tendencies. For all Jacobins, but particularly those who could not afford *culottes* (knee-breeches) and were therefore known as *sans-culottes*, the politicisation of society was the precondition for the defence of the Republic. Distinctions appeared above all in the fact that the *sans-culottes* considered it possible and necessary to shorten the process of politicisation by a change in behaviour. They sought, in other words, to spread the *habitus* of *citoyens* and *citoyennes*, as a way of attaining political unity on the basis of this homogenised behaviour pattern. When *sans-culottes* activists made themselves known as champions of equality by their very clothing, when they harassed well-dressed individuals and frocked priests in the streets, or in winter 1793–4 forced bakers to bake only one kind of bread, 'equality bread', they exercised a dictatorship designed to enforce equality.

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<sup>55</sup> Cited after Bertaud 1983, p. 61.

The *sans-culottes* movement made the public into an instrument of social self-control, with no established limits. This control was practised not only in meetings but also on the streets, in public places and in houses. The new sovereign had no place for the notion of a space free from power that had been demanded from the old sovereign. Freedom was deemed a public mode of existence. It stood before the judgement seat of the nation, and the demand for rights of private freedom, above all the right to freedom of belief, was seen as a public offence. Denunciation, the encroachment of politics into the private sphere, was declared to be Republican virtue. As the *sans-culottes* deduced a person's political attitude from their mode of behaviour,<sup>56</sup> the forcible equalising of modes of behaviour was for them a means to establish genuine equality and unity. In this, however, they failed. Yet the *sans-culottes'* public manifestation, though it prevailed for less than two years in the towns, spread widely in the army and had its effects even in the villages, attaining a significance for the development of bourgeois society in France that reached far beyond this brief timespan. The reason of this particular effect lay in the contrast between differences in possessions and education, and the equality of public modes of behaviour that the *sans-culottes* had forcibly established. In this way, possessions and education – let alone origin – were refused the public confirmation that had formerly made them the basis of a socially recognised status. Without such public confirmation of privately acquired means, these were not automatically opportunities for private well-being. The *sans-culottes* demanded a maximum (a price limit on the most important foodstuffs) and provisioning for the poor, they demanded collective rights of usufruct on private property,<sup>57</sup> but they did not question the structures of possession nor the class structures of appropriation. Their policy – fought to the death – was directed at anchoring the unity of the nation in a unity of public modes of behaviour.

The murders of imprisoned suspects, including many priests, that were committed in September 1792, likewise execution by guillotine, were forms of a politics seeking to enforce the proper behaviour of citizens at any price. In the early phase of the Terror, the guillotine was still the instrument of a

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<sup>56</sup> According to Soboul 1958, p. 22.

<sup>57</sup> Sewell 1980, p. 39.

revolutionary popular movement, despite the state organisation of execution ceremonies.

The unconstrained efforts to create national unity legitimised the Terror and even required it, but they also founded those contents of nationalism that operate still today in the legend of itself that the French nation tells. The origin of this legend has a date. On 20 September 1792, the scarcely trained volunteers and soldiers of the regular army who had withstood the Prussian infantry at Valmy, proclaimed the slogan 'Vive la nation'. From that point on – according to contemporary reports – none of them retreated in the face of the enemy bombardment. It was not only life and limb, hearth and home, that were now defended, but also the already experienced possibility of changing the world for the better.

This experience was also undertaken in the very name of the Republic, which was first described as 'Marianne' by the counter-revolutionaries, as Maurice Agulhon<sup>58</sup> has explained. Marianne was a name used almost exclusively for girls of the lower orders, and accordingly used also to denote such a character in novels. The counter-revolutionaries sought to stir up contempt for the Republic in the eyes of the mob, but they only displayed their own social arrogance. The defenders of the Republic, for their part, boosted their enthusiasm by taking over this insult. They extolled this 'Marianne' for whom they risked their lives.

The symbol of Marianne expressed the temporary hegemony of the *sans-culottes* in public discourse. The radicalisation of many artisans, traders, manufacturing workers and peasants was certainly prepared and promoted by the agitation of (educated) Jacobin citizens, but when this social group sought to maintain their political-pedagogical relationship of a vanguard vis-à-vis the militants from the lower popular classes, the *sans-culottes* also developed their own forms and strategies of discourse.

But it was not just the *sans-culottes* movement that sought to short-circuit the road to unity. The revolutionary vanguard did so as well. For this purpose, it constructed the framework of a world in which life would necessarily have to be lived in rational forms – forms therefore of civic virtue. New weights and measures, new – strict – forms of expression, and above all the uniquely revolutionary linkage of nature and reason that was the new calendar: these were

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<sup>58</sup> Agulhon 1979.

to structure the lives of French citizens. No similar attempt had been made to impose such new forms on everyday life in Europe since the introduction of church bells, and moreover, these were not arbitrary forms imposed by power, but ones that could stand up before the judgement seat of reason. This strategy towards the public sphere, for that is what the attempt to create a 'geometrical community'<sup>59</sup> amounted to, was not only continued after Thermidor and under the Directory, it was to some extent even expanded.<sup>60</sup> But the enforcement of a public habitus on *citoyens* and *citoyennes* ended with the dictatorship, and the public *tu* also persisted only for a short time after.

Already under the dictatorship, the government's practice in the public sphere increasingly came into conflict with that of the *sans-culottes* – or as we would say today, that of the grass roots. The enforcement of equality and unity was continued. The radical Jacobins discriminated against the many non-French-speaking inhabitants of Alsace, Brittany, Flanders and the Basque country. They hurried through the centralisation of administrative structures, sent emissaries with plenipotentiary powers out to the *départements*, and demanded comprehensive weekly administrative reports – a practice unheard-of at that time. The dictatorial government also made the control of behaviour developed by the *sans-culottes* into a form of state policy, but changed its character in the process. For, during the short time in which the *sans-culottes* dominated not only the street but also political discourse, the public had been not only an instrument of social control, but the very subject of politics. In the course of the Jacobin dictatorship it lost this position.

The signs of this change are numerous, and we can give only selected examples here. A law of 9 September 1793, for example, prohibited the 'permanence' of the Paris sections. From now on these were only to meet twice a week. At the same time, those who found it hard to take time off work were granted a session fee of 40 *sous*. This was a masterly stroke. For the introduction of the session fee aroused the impression that the opportunity of poorer (and supposedly more radical) *sans-culottes* to participate was being improved. In fact, however, at the time of daily meetings a small group of radicals had generally managed to control the discussion of the sections in such a way that the representatives of more moderate views were kept at a distance. In the disputes

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<sup>59</sup> Starobinski n.d., p. 45.

<sup>60</sup> Hunt 1989, Chapter 3.

over claims to the session fee, there was now a discrimination against '40 *sous* patriots'. The split in the *sans-culottes* ranks that now emerged restricted the ability of the radical grassroots to assert their policies.<sup>61</sup>

Even so, numerous new popular associations were founded in autumn 1793. They sought by their debates and actions to make up for the abolition of 'permanence'. Many of these societies, however, either dissolved themselves, or else they suspended meetings (temporarily, as they believed) when after the imprisonment of the Hébertists in March 1794, political moderates started to risk criticising the government in public debates. The limitation of freedom of opinion and assembly in these conditions seemed justified to many people, in so far as they would rather renounce these freedoms for themselves than contribute to giving the enemies of the Revolution a platform.<sup>62</sup>

In the course of the dictatorship, the Terror developed from a bloody means of enforcement of an angry people into a bureaucratically and mechanically applied enforcement of policy. As Danton put it, even before the establishment of the revolutionary tribunal in March 1793, 'Let us be terrible, so that we can prevent the people from being so.' The tribunal operated on the basis of information from the supervisory committees of the sections that had initially arisen spontaneously and were subsequently formalised. It later dealt also with accusations from the *départements*. The number of executions in Paris accordingly rose. In the final weeks of the dictatorship there were more than twenty each day.

Early in 1794, the scaffold on which the Paris guillotine was erected was moved a number of times, finally to the *Barrière du Trône renversé*. This removal of the execution machine from the geographical centre of the capital's public symbolised that the spectacle of Terror had now lost the character of a revolutionary festival. Spectators still arrived, and a drama was staged on the long route to the scaffold in which the main performers played just once their allotted roles. But the execution of real or supposed enemies of the Revolution was finally transformed in summer 1794 into a government act, bureaucratically prepared and brought to its conclusion as a mechanical process.<sup>63</sup>

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<sup>61</sup> Burstin 1983, *passim*.

<sup>62</sup> Monnier 1987, pp. 187 ff.

<sup>63</sup> Arasse 1988, *passim*.

In the wartime conditions, the temporary unity of the peasants with the urban population partly broke down again. There are indeed reports that the revolutionary armies that sought to establish a war economy in the countryside in the winter of 1793–4 were initially greeted with rejoicing in the villages, and welcomed with banquets.<sup>64</sup> But this changed in many places when the soldiers conducted midnight house searches for hoarded grain, when they prosecuted the increasing theft of wood (reminiscent for poorer villagers of the exactions of the *ancien régime*), controlled the slaughtering of animals and finally, in pursuit of de-Christianisation and procuring financial resources for the war, took away church bells and raided the churches' silver. If in the first two years of the new calendar a far-reaching social revolution was initiated in the towns, and to a certain degree actually realised, the poorer villagers remained excluded from this development. They did enjoy the universal suffrage for men over 21 – with the exception of servants – that was granted in August 1792, but this formal extension of opportunities for participation was counteracted by the material core of the *sans-culottes'* demands – the 'maximum' – and by requisitions for the army. There were peasants who took part in the *sans-culottes* movements (I follow R. Cobb in using the plural here), just as there were villages in which de-Christianisation was radically and angrily pursued by the inhabitants themselves, but the demands for provisions brought the *sans-culottes* into fundamental conflict with the peasants forbidden to stockpile grain. Firmly resolved, in view of the danger in which the *patrie* found itself, against all 'egoistical monsters', in the expression of an appeal to villagers,<sup>65</sup> they created the preconditions for those savage festivities in which villagers in many places scorned the symbols of the Revolution.<sup>66</sup>

But the Revolution found expression even in those actions that the towns saw as counter-revolutionary uprisings. Little remained to the peasants in the way of expressing their opinions except rioting and the pike, but in their very revolt they appealed to the new order: to the rationality of the public sphere. Thus the peasants of La Roche-Bernard, in March 1793, informed the towns of their 'justified grievances', which, 'whatever you may say, have too often been rejected',<sup>67</sup> and the peasants of Housan, when they laid siege to a nearby town

<sup>64</sup> Cobb 1963, Volume 2, p. 398.

<sup>65</sup> Cited after Cobb 1963, Volume 2, p. 437.

<sup>66</sup> Ozouf 1976, p. 314; Bercé 1974, pp. 154 ff.

<sup>67</sup> Bercé 1974, p. 184.

on 13 March 1793, appealed to their 'brothers and friends', while making clear that they would not return home until their demands had been heeded:

There is an alarming divide between towns and villages, and annihilation will be unavoidable if we are not listened to. It is we who nourish the towns with our sweat and our labour. The towns should therefore be prepared out of gratitude and humanity to engage themselves for our interests.<sup>68</sup>

What the peasants of Houdan found particularly unjust in the towns' demands was that they were taken away from their families 'by force of arms' and sent against their will to foreign lands.<sup>69</sup> The war was for many of them an urban affair, and they could not understand why the Revolution, once it had beaten back the enemy, had to be defended abroad.

The dictatorship's strategy towards the public sphere used the practices and structures of the revolutionary public itself. But it increasingly implemented a notion in which it was not actual empirical public opinion that served as the proper basis of political legitimisation – neither the result of institutionalised opinion formation nor the views of 'the tribunes', 'the street' or the sections; this opinion was rather to be found in a 'genuine' will of 'the people' to be interpreted by the political vanguard. It was only once the people as a whole – women still being as usual omitted – were enlightened and the threat to the nation's existence was removed, that the empirical and the 'genuine' popular will could be taken as one and the same. Although the Jacobins saw the common good as being anchored in the ordinary people, rather than in those 'private interests' that determined the conduct of people in high positions (Robespierre on 10 May 1793),<sup>70</sup> this did not prevent them from seeing themselves as the privileged interpreters of what the people wanted. The government opposed to the revolutionary public the will of an aggregate. The Jacobins were not an estate, as Roland Mousnier maintained,<sup>71</sup> but they were a vanguard that behaved increasingly pedagogically towards their political basis.

The dictatorship opposed to the forms of direct democracy practised by the *sans-culottes* a notion of the public sphere as instance of education. Because the reason of free individuals transmitted in public communication could not

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<sup>68</sup> Bercé 1974, p. 146.

<sup>69</sup> Bercé 1974.

<sup>70</sup> Robespierre 1971, p. 410.

<sup>71</sup> Mousnier 1964, Chapter 10.

sufficiently ensure the stability of the Republic, they held a state-directed moralisation of society to be necessary. In practice, this notion of the public sphere was expressed in the functionalising of national festivals for the presentation of Republican virtues, as well as in the attempts to put an end to the 'over-radicalisation' that was to be feared in spontaneous public manifestation. The dictatorship did not just put an end to the practice of de-Christianisation by terror, it recognised the socially stabilising character of religion – as a support for reason to be promoted by the state. Robespierre in particular held the view that 'the holy bond that ties men to their Creator should not be destroyed' (7 May 1794).<sup>72</sup> The Catholic religion should thus be replaced by a 'cult of the nation and the Supreme Being'. The good of the fatherland required a teaching that could 'console and elevate souls'.<sup>73</sup> Since reference to reason alone might conjure up the danger of individuals confusing their reason with their passions, the 'religious sentiment' was needed to support the unreliability of human authority, by awakening in men's souls the idea that a power standing above men could sanction the prescriptions of morality.<sup>74</sup>

State ideological production of this kind limits the objects that an enlightened public can criticise. This public is thus removed as an instance of criticism of rule, and made into a functional component of the dominant political practice. This also corresponded with actual development in the course of the Jacobin dictatorship. Bureaucratisation of the government and restriction of direct democracy led among former activists either to political apathy or to an unconditional credulity towards the government. It was possible in this situation for 'politics' to once again become a business understood only by a few. Ferenc Fehér has pointed out how even under the Thermidor administration most state affairs were not treated as secret, yet Robespierre's last speech could already be understood only by those aware of the internal conflicts within the government because they more or less belonged to it.<sup>75</sup> It was de-Christianisation that brought down the dictatorship, yet its efforts to repress the claim of the public were successful. If it was possible to bring the dictatorship to an end in July 1794 (on 9 Thermidor), this was only because in summer of that year the possibility arose of transforming the war of defence into a war

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<sup>72</sup> Robespierre 1971, p. 667.

<sup>73</sup> Robespierre 1971, p. 672.

<sup>74</sup> Robespierre 1971, p. 675.

<sup>75</sup> Fehér 1987, p. 119.



of conquest, provisioned by robbery abroad and thus less dependent on the support of the common people at home; it was also because the original basis for the dictatorship had been destroyed by the dictatorship itself. To prevent possible actions by 'the street', February and March 1794 saw the condemnation of those who had demanded more radical economic measures in the Cordeliers club. The revolutionary armies that had been used to defeat counter-revolutionary uprisings at home and carry out a policy of war economy against peasant resistance were dissolved in March, and General Rosin who had commanded them was guillotined. This dissolution was effected without resistance by the soldiers. Despite their discharge, the armed *sans-culottes* remained obedient to the revolutionary government. But this had now largely lost its own power basis. (Subsequent governments understood better that the revolutionary armies supplied this basis of power. Under Thermidor, many who had belonged to them were deported, and still under Napoleon they were being hunted down by the police and condemned by the courts.) From early in 1794, the dictatorship ruled by bureaucratic means, and on the basis of a belief in the government that was widespread among those most active in the developed public of the time.

With the fall of the Robespierrists on 9 Thermidor of Year II, the empirical will of the people was supposedly re-established. But so that expressions of this will should not deviate from the political and social goals of Thermidor, the effort was made to restore the possessing class's hegemony over political discourse that had been lost in 1792. This goal could not be attained by a mere change in political institutions – given the politicisation of public discourse that had occurred in the meantime.

When the former repressive strategies were abandoned, there were angry shows of contempt at symbols of the Revolution, such as busts of Marat.<sup>76</sup> Such acts of revenge also criticised a strategy towards the public that had aimed at making the entire public sphere into a stage for the depiction of liberty – and its heroes. Aristocrats and rich bourgeois now celebrated their survival in the excessive frivolity of their balls. The form of these festivities, however, also made clear that the rich and eminent were prepared from now on to determine their behaviour patterns again for themselves. With their fashions, their carousing and their comic songs, they poured scorn on the behav-

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<sup>76</sup> Bowman 1977, pp. 155–79.

itorial dictatorship of the *sans-culottes*. The new 'language' of public social intercourse under Thermidor arose from a mixture of relief and revenge. Its stabilisation, however, did not proceed without both violence and deliberate political strategies.

So that the formation of political opinion could take the form of a free play of opinions, the preconditions and forms of *sans-culottes* practice had to be destroyed. The influence of institutions of direct democracy was curtailed, the temporary exclusion of the literary public was reversed by the return to an unhindered operation of economic competition; the code that the *sans-culottes* had developed for the behaviour of *citoyens* and *citoyennes* was replaced by the presentation of social differences in public life, and the participation of manifest public expression in the process of political decision-making was delegitimised. This was effected by both institutional regulations and official strategies. The trials of those responsible for the Terror were staged as regular publicity campaigns. The *jeunesse dorée* also played a considerable part in the destruction of previous forms of the public sphere.<sup>77</sup>

These were young people whom the *sans-culottes* contemptuously described as *muscadins* [fops]. In the course of the Revolution, and especially in the first months after Thermidor, they formed a regular political movement. This was active above all in Paris, but also in certain other large towns.

The *muscadins* first found a political identity in their common resistance to recruitment – a resistance that was at first relatively open, later rather concealed and evasive. Until 1793 it was chiefly volunteers who fought alongside the regular soldiers, many of these active citizens until 1791, and the following year mainly workers and peasants. The *sans-culottes*, however, agitated for a *levée en masse*. As early as February 1793, the establishment of new battalions in many *départements* was carried out by lot, following the hated practice of the *ancien régime*. The *muscadins* opposed this recruitment, agitated also in the countryside, and succeeded in winning over many sons of peasants to their cause.

When the great *levée en masse* demanded by the *sans-culottes* was finally decided in August 1793, with only family fathers and widowers with children being excluded, many of the wealthy young gentlemen went into hiding, especially in Paris. But what particularly made this *jeunesse dorée* into a kind

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<sup>77</sup> Gendron 1979, *passim*.

of movement was their opposition to the public modes of behaviour insisted on by the *sans-culottes*.

These people – legal clerks and commercial assistants, journalists and other young men who saw themselves as better than the rest – expressed their opposition to certain ideals of the Revolution by wearing incriminating knee breeches [*culottes*], giant cravats, powdered wigs and other striking clothing. They met in particular cafés and public squares, and if there were enough of them, got into arguments with the *sans-culottes*, though rarely in the latter part of the Jacobin dictatorship. After the fall of the Robespierrists, however, the *muscadins* embarked on a systematic chase after all who looked like *sans-culottes*. They also staged battles of chairs in the meetings of the sections, or forced theatres to change their programmes by storming the stage. They demanded the closure of the Jacobin clubs, and when the Convention debated this question, they drove the *sans-culottes* and their wives who were present from the tribunes. In winter 1795, when Paris was ravaged by hunger, the *muscadins* blocked women from handing a petition to the Convention.

With their daily hunt for activists, which they made into a sport, the *muscadins* converted the anti-Jacobin press campaign into a form of public social communication. Since the authorities deliberately tolerated this practice – along with the establishment and training of regular ‘regiments’ – the *jeunesse dorée* functioned as a private army of the Thermidorians. The fact that many activists of direct democracy had left Paris helped them chalk up successes. Many of these were called up for the army. (Unlike the *muscadins*, the *sans-culottes* did not try and escape military service on medical grounds.) Others left the city out of disappointment or in order to avoid possible persecution.

In Germinal of Year III (April 1795), the authorities ended their toleration of the *jeunesse dorée*. Just like the *sans-culottes*, the *muscadins* were now forbidden to carry weapons.

In April and May 1795 (Germinal and Prairial), popular uprisings took place in Paris (in Germinal also in the provinces). The government put these down with armed force. This was possible because soldiers no longer took part in political discourse. When they were told that these were counter-revolutionary actions, they lacked the information to question this.

With the repression of the popular revolts of 1795, the legitimacy of the participation of a manifest public in the process of political decision-making was contested – in a way that would be effective for decades to come. Mass

petitions now became an attempt to circumvent the legal route of opinion formation. For a political strategy aiming to put a halt to the revolutionary process, the criminalisation of this form of motion of the public that had characterised both the Revolution of 1789 and its radicalisation in 1792 played a central role. The popular revolts offered the occasion to prosecute activists of the Jacobin dictatorship: *sans-culottes* were executed, deported and imprisoned; many of them took their own lives. In the south especially, Thermidor saw bloody campaigns of revenge against the partisans of the dictatorship – some of these official, others simply private.

When a government was appointed under the new constitution in October 1795, this appealed to a ‘public opinion’ that was formally free, but in practice restricted. The dominant practice towards the public under the Directory (October 1795 to November 1799) differed from that of Thermidor by provisions against changes in the constitution and political ‘foolishness’ that was already dimly suspected. Given the forcible exclusion that had already been implemented, and the political apathy that had grown widespread in the meantime, there was initially no resistance. Thus, even apart from the constitutional precautions, the influence of the ‘tribunes’ on politics under the Directory was not a threat, as scarcely anyone turned up for public debates. Even deputies often remained absent from these.<sup>78</sup> The changed political situation is shown even more clearly in the ‘strike of the elected’. The new constitution had placed tight limits on who could be elected to the local authorities, yet even so, many of those elected refused to accept their election, or else they resigned as soon as they could from their poorly paid offices, which moreover were very likely to make enemies for them among their neighbours. It was scarcely possible, especially in regions where actions of peasant resistance still continued, to find replacements for those who had resigned, or to persuade those supposedly in office to actually exercise this.<sup>79</sup> The Directory governments based themselves less on a particular social stratum than on the widespread desire for orderly conditions, which particularly prevailed among those who had profited from the revolutionary changes in ownership. This far-reaching depoliticisation of the public sphere enabled local administrators to instruct the government about ‘public opinion’, just as they had

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<sup>78</sup> Bessand-Massenet 1970, p. 180.

<sup>79</sup> Lyons 1975, pp. 166 ff.

done before the Revolution.<sup>80</sup> With the stabilisation of the administrative system, which had begun already under Thermidor and was taken much further under the Directory, one of the most important structural conditions for the development of the post-revolutionary political public was achieved. Successful management made it possible to require from *citoyens* and *citoyennes*, who had learned in the Revolution to demand rights, corresponding duties, not only by way of intention, but by the construction of a system of regulation. After 18 Fructidor of Year V (4 September 1797), following electoral successes by both royalists and neo-Jacobins, the government appealed to *raison d'état*, i.e. to a certain modicum of legitimacy placed above the results of political opinion formation. The Directory agreed with the Jacobin dictatorship in this regard, differing from it only in the contents. The governments of both these phases of the Revolution also agreed in considering measures necessary that alienated their own political basis. In the case of the Jacobins, this was particularly the extension of the 'maximum' to wages, with the Directory it was a rigid church policy, a forced loan from the rich and the stabilisation of state finances by a partial state bankruptcy that damaged pensioners. This is why the *propriétaires* did not bother to defend the Directory constitution after Napoleon's coup d'état.

The Directory put an end to both official and unofficial anti-Jacobin terror, as well as the demonstrative frivolity with which the demands of virtue had been scorned. In any case, politically responsible elements no longer took part in this form of social expression. The Directory thus also ended the time in which men saw themselves as heroes seeking to create a new world.<sup>81</sup> The Directory were more or less competent specialists in state affairs.

After his coup d'état of 18 Brumaire (9 November 1799), Napoleon declared that the Revolution had now been returned to its principles, and was thus at an end. In actual fact, under both the Consulate and the Empire there were still formal connections with structures of both liberal and even radical practice towards the public sphere. The principle of representation was allowed to celebrate Napoleon's triumphs. State power, however, now put more effective limits on public discourse than in the previous course of the Revolution: radical political tendencies were suppressed by censorship measures, police

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<sup>80</sup> Church 1973, p. 289.

<sup>81</sup> Abensour 1989.

supervision of individuals, banishments, deportations and executions. The limitation of suffrage to notables largely restricted participation in the institutional process of political decision-making. But Napoleon overrode even the results of this kind of opinion formation. Important decisions came under the remit of the *senatus consultus*, the *information* of a board of prominent individuals who were appointed, not elected. In formal terms, plebiscites preserved a link with the revolutionary public, as everyone took part except the social and sexual categories whose exclusion was deemed obvious. Yet the plebiscites marked especially clearly the change in the public sphere from the form of motion of a self-revolutionising society into an organ of acclamation for policy – in fact, for a person.

The Revolution had already known a cult of personality, the honouring of heroes and martyrs.<sup>82</sup> But this appeal to individuals remained predominantly symbolic in character. (Most clearly shown in the cult of the murdered Marat, and the later attempt to destroy this and its symbols.) Bread, constitutional arrangements and military mobilisation were all demanded in the name of the people; even the debates about the execution of the king were more about the monarchy and present political conditions in general, than the fat little man whose head was then cut off. Napoleon, on the other hand, was acclaimed as a person. The first plebiscite was falsified.<sup>83</sup> From 1804 the emperor abandoned further plebiscites, and increasingly the legitimisation of his régime by ‘public opinion’ in any sense. He based himself now on the military and bureaucratic apparatus. The public sphere was the sphere around his person and the performances of state power. One important precondition for the silencing of the political public was the depoliticising of the military: the removal of one characteristic feature of the revolutionary public.<sup>84</sup> From the Directory on, soldiers’ clubs were forbidden and political agitation banned in the army. Soldiers lost the right to have a say in the election of their officers, or in military justice and administration. A new and exclusively military self-conception was proposed to them in place of this. During the Revolution, professionalism, as we shall come on to explain, became part of the content of an officially propagated image of all soldiers; under Napoleon, this was integrated into a nationalism

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<sup>82</sup> Vovelle 1982, pp. 123 ff.

<sup>83</sup> Langlois 1972.

<sup>84</sup> Bergeron 1972, pp. 114 ff.

that had the might of the nation as its essential content. The nationalism that had arisen from the palpably lived community of the revolutionary public was dissolved into an 'imagined community' (Benedict Anderson). Yet there survived even in this nationalism, albeit ideologised, the memory of that fraternity for which Valmy had become a symbol right across France.

Twenty-three years after the battle of Valmy, Marshal Blücher is supposed to have said to the Prussian soldiers before the battle of Ligny: 'Now, lads, behave well! Don't let the *grande nation* get the better of you again!'<sup>85</sup> At this point in time, however, the French soldiers had been excluded once more from the active political public, and the content of what was to be understood by the concept of the nation was largely developed by others. The common people in the army were supposed to be proud of serving the *grande nation*. But Napoleon referred to the common people outside the army as the 'mob', and he was not alone in this.

### **c. The revolutionising of *ancien-régime* forms of rule into bourgeois state power**

René Sédillot sums up his cost-benefit account of the Revolution by concluding that it undoubtedly increased France's prestige in the world; the French loved it because they had been taught to do so; but, at the end of the day, this gruesome trajectory counted for very little compared with the revolutions in agricultural and industrial production in which England was engaged at the time.<sup>86</sup> Other writers have argued that small peasant property, one of the most prominent characteristics of French society in the nineteenth century, was already firmly established by the time of the Revolution; that many families who had been wealthy before the Revolution became still more so in the wake of it; and that those who had been poor before the Revolution in no way had an easy life afterwards. Others again have maintained that many of Louis XVI's officials maintained their office and dignity during and after the Revolution; indeed, many of the financiers who had serviced Louis XVI's debts enriched themselves by state debts under Bonaparte, if not still under Charles X.<sup>87</sup> It

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<sup>85</sup> Cited after Sutherland 1966, p. 135.

<sup>86</sup> Sédillot 1987, pp. 278–82.

<sup>87</sup> Brugière 1986, pp. 192 ff.

has finally been argued that the Revolution had no significance for the development of French capitalism, since this development – as some maintain – was already under way, or – as others maintain – a capitalist development in France would have taken place anyway in the second half of the nineteenth century.

All these lines of continuity, as well as others not mentioned here, are nowadays contested only in particular details. Two main strands of argument, however, have crystallised out in terms of the overall verdict on the Revolution. One follows the same crude materialism frequently represented by decided opponents of Marxism. Because forms of appropriation in the agricultural sphere were no longer feudal before 1789, because there were noble capitalists, and – on the whole – the balance of wealth was not fundamentally altered by the Revolution, this is considered as a set of political effects with little actual weight. At the heart of this interpretation lies the thesis (presented as a criticism) that the Revolution existed above all in the legend of it that was handed down. If the field of contention between the hostile schools were not so clearly staked out, it would long have been clear that arguments of this kind correspond to conceptions of base and superstructure. Representatives of the ‘social interpretation’ see the Revolution as chiefly political, and hence – in terms of the orthodox-Marxist model – a rather secondary transformation, but opponents of Marxism also emphasise from their point of view the secondary character of the Revolution in terms of its chiefly political character. The theoretical foundation of both arguments is identical.

It is different with another line of argument that has more recently come to prevail in scholarly debate. This tendency sees the Revolution as primarily a transformation of mentalities. Many of them, for instance Michel Vovelle<sup>88</sup> or Rolf Reichardt,<sup>89</sup> maintain that it is necessary and scientifically fruitful to foreground the perspective of cultural transformation that was previously neglected in scholarly research, and several even see this as the very content of the Revolution. No one can deny that the Revolution saw the development of new symbols, new modes of behaviour and new patterns of thought. Many of these ‘inventions’ can be – retrospectively! – interpreted as the culmination of a long-term change in mentality, while others were actually introduced

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<sup>88</sup> Vovelle 1982, Part 3.

<sup>89</sup> Reichardt 1988.



during the period of transformation. Not all of these symbols, structures of thought and patterns of behaviour found their way into the dominant culture of the post-revolutionary society, but some of them did so, and others were handed down in suppressed political cultures or rediscovered by representatives of these. In this way, the Revolution is – irrefutably – transformed into its own legend, and becomes a component of the dominant self-conception of French society and its critique. These legends of the French Revolution provide a basis of legitimisation for political strategies, very similarly to the legend of the ‘American Revolution’ in the USA. In the context of such revolutionary legends, the developed revolutionary public continues to function as a basis of legitimisation for politics. It stands in a certain sense above the confirmation that representatives of political strategies seek in an empirically present public. No wonder, therefore, that the dispute over which revolutionary public should be seen as the ‘proper’ one, runs right through the historiography of the Revolution. Or more precisely, it used to do so. For the prevailing discussion today draws the Revolution’s political teeth. The question of power – the content of any kind of revolutionary drama – is nowadays posed principally in the form of the dominance of particular cultural forms. This presupposes, however, that culture changes because and in so far as rule changes.

The French Revolution brought about the end of individual and generalised personal rule, and in this way established bourgeois state power. If this was a cultural transformation, which it certainly was, it occurred in connection with the revolutionising of a system of rule. The most important features of this structural change will now be presented.

### c.1. *Destruction of personal rule*

The rule of the *ancien-régime* kings was a personal one, derived from succession, coronation and anointment. On top of certain prerogatives, which were never actually formalised in France, such as the right to decide on war and peace, they also possessed symbolic means of power. This symbolic power arose from the sacral character of the royal dignity, from the traditions of kingship and from the forms that had been invented for the representation of this rule. In the course of the *ancien régime*, the personal rule of the king became established as a general ruling power, while, at the same time, the

practical limitations to which the king's deployment of royal rule had been subject under feudalism were extended. The most important of these was the literal privatisation of large parts of the royal power, including the almost complete privatisation in practice of royal fiscal power. If kings wanted to exercise their ruling power and actually govern, they had to seek influence over their own officials. The successful possibility of this depended on objective conditions and on the king's personal talent.

In 1789, it was not the limitations on the king's exercise of monarchical rule that were extended, rather the former limitations on generalised rule were abolished altogether, and the generalised power as a whole subjected to the will of the nation. At this moment, and not just with the formal abolition of the monarchy, *personal monarchical rule was destroyed*.

The introduction of a constitutional monarchy in the French constitution of 1791 was a quite different process from the gradual constitutionalisation of the monarchy in England. In England it is impossible to give an exact date when so much of the royal rule was made public – i.e. appropriated by Parliament – that one can speak from then on of a public generalised power; nor can an exact date be given as to when local rule lost its estate character. At all events, this personal rule was not finally removed in 1649 or 1688, and local estate rule did not even fall victim to the great reforms of the 1830s. In both cases, there was a process of limitation occurring through several steps until the final expropriation of personal rule was attained.

The situation in France was quite different. Here there were *practical* limitations on the deployment of personal rule before the Revolution, but at least as far the royal power was concerned, no legal expropriation. Then in 1789, it was not just a part of the king's personal power that was expropriated, but his entire sovereign power at a stroke, and from this time on, according to the will of those who spoke for the nation, a part of the power that had been made public was conveyed to the – newly created – public office of a king. Many Parisian women and men drew attention to this far more consistently than their deputies had done, when they forced the king to return from Versailles to Paris in October 1791. Since the generalised power was no longer the property of the royal person, but the royal office rather the property of the nation, it was no longer the royal person but the nation that would determine the seat of government.

According to recent interpretations, Louis XVI was initially by no means completely opposed to these developments. Only the anti-clerical policy of the Constituent Assembly and the pressure that church circles exerted on him made him into an enemy of the Revolution. But however this may be, in political terms the possibility of a constitutional monarchy had been foreclosed even before the constitution that provided for it was put into effect. For when the royal family tried to flee abroad on the night of 20–1 June 1791, and were discovered in Varennes, the first incumbent of the royal office lost the symbolic power that he might have been able to bring to this new definition. When the king's family were brought back to Paris under guard and a silent crowd filled the streets, Louis XVI was transformed into Louis Capet – even if this name was first used only at his trial. The king may well have received the official pardon of the National Assembly a few days later, but this was not because he was king, but rather because the view still prevailed in the National Assembly that it was useful to have a king. This unhappy man, who was not cut out for a king and had neither special abilities nor any inclination for the job, could not now escape the situation that he had himself – at least in part – created. Before his trial, during his trial and through until his fate was determined, he was an object of national and international political dispute. When he went to his death, he fulfilled – very likely for the first time in his life – all the demands that contemporaries placed on a king. To prepare himself for the task, he is supposed to have read in prison reports on the execution of Charles I, who also died 'like a king' in 1649. The king's 'composure' in the face of his death, which was witnessed by many and rapidly broadcast, offered enemies of the Revolution the opportunity to venerate him as a martyr. To this extent, 21 January 1793 saw the birth of post-revolutionary royalism.

As early as June 1791, however, royalism in France had been only the politics of a certain fraction. For the remains of royal rule that were not derived from the will of the nation but stemmed from the tradition of the royal exercise of rule and – above all – from the sacral determination of this rule, lost by the king's attempted flight the confirmation in 'public opinion' on which their continuance had in the meantime come to depend.

The abolition of the personal character of generalised monarchical rule released this power as a *public power* and thus constituted the impersonal power of the state. The abolition of estates – formally decided on 19 June 1790 – released class structures and in this way constituted the state as a formally

general instance. The fact that estate privileges at the end of the *ancien régime* could not guarantee a better material position, and that substantial discrepancies had arisen between estate hierarchy and the hierarchy of possession, in no way affects the fundamental structural significance of this process. For, with the implementation of formal equality – for almost all male members of society – new conditions arose for the constitution and pursuit of interests, as well as new conditions for the conversion of material position into social status.

Until the Revolution, membership of the nobility had been a personal property. During the Revolution, the state removed this property from nobles, and the *sans-culottes* public also contested it on the ground. After Thermidor, the prescribed public habitus was replaced by the form of habitus production characteristic of bourgeois society: the conscious and unconscious generalisation of patterns of thought and conduct that correspond to a particular social position and then also reproduce this. From now on, family name and possessions gave accidental advantages in the competition for social positions. In practice, social positions also became hereditary in bourgeois society, but not on the basis of state guarantees, rather of the incomparably better prospects of children of parents with high social status. The Revolution sent 'blood' back into the realm of biology.

It may well be that it made a difference for the peasants that the proprietors with whom they had to dispute had their seigneurial rights curtailed, yet the most important material significance of the abolition of estates undoubtedly accrued to those seeking a career in the service of the state. We need not follow Alfred Cobban in interpreting the Revolution as the work of a middle class whose advance was obstructed,<sup>90</sup> to see the formally free access to administrative and military careers as one of the most important structural effects of the Revolution.

This does not contradict the fact that more than a few former office-holders and their employees remained in the state service after the Revolution. Most members of the *parlements* withdrew to their estates, as did most former owners of high offices, but many who had been active as *intendants* and in other capacities for the central government were taken on by the new state power,

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<sup>90</sup> Cobban 1964.

especially when specialists were required. Even under the Empire, around one-third of the administrative personnel had had their initial experience in the administration of the *ancien régime*.<sup>91</sup>

Although, already under Napoleon, a certain formal examination system was introduced, opportunities for access and promotion continued for a long time to depend first and foremost on connections. More than before the Revolution, however, formal qualification was now an indispensable condition for state service. By the expansion and specialisation of the administration, nepotistic structures of appointment gradually crumbled away in the course of time. Yet it was in the state service above all that the old ruling class merged in with the new. Though within the unofficial structures of connection that were decisive for access, former estate membership initially had particular weight alongside the extent of family possessions, in the course of time specialised qualification also played an increasing role. This made state service, as Christophe Charle writes, into a 'meeting point of the ruling class'.<sup>92</sup> So that this should not be accessible to all, those who dominated the social structures in the wake of Thermidor developed an educational system with a socially selective effect. Higher education was expanded and financially favoured. The lycées and gymnasia at which the preconditions for advance into the ranks of notables and state servants were acquired, effected a social exclusion without the principle of formally free access being impugned. The numerous scholarships that were initially available for all schools confirmed the revolutionary programme of making social advance accessible to the best and brightest. When the old and new rich increasingly went over to sending their children to private schools, they created a new form of exclusiveness.<sup>93</sup>

## c.2. *Opening up of centralised power of office: the structural transformation of institutions of public power*

The Revolution created public service. It nationalised the power of office and thus not only abolished private property in generalised power but also the lordly rights of officials. It is scarcely believable that this key content of the Revolution plays no role in recent historiography of the French Revolution –

<sup>91</sup> Bergeron and Chaussinand-Nogaret 1979, p. 40.

<sup>92</sup> Charle 1980, p. 255.

<sup>93</sup> Cf. Woronoff 1972, pp. 158–62.

apart from J.F. Bosher's synoptic history<sup>94</sup> and William H. Sewell's study of labour conditions.<sup>95</sup> When changes in wealth are discussed, office property is regularly left out of consideration, and when forms of government are dealt with, most writers point to personal continuities and the expansion of the administration. We do not need to discuss again here the structure of office power under the *ancien régime*. It should be stressed, however, that along with the destruction of personal royal rule, property in office power and the privileged disposal over means of generalised power were also destroyed. This affected property that was inherited or purchased in the form of seigneurial jurisdiction, the competences of estate assemblies in the *pays d'état* and the rights of oligarchic town authorities, the privileges of university syndics, guild masters and lords of the church. All private and corporate ruling competences were appropriated by 'the nation', which then created organs for the execution of its will (a process in which all governments of the revolutionary years were involved).

We can take just the single example of the *parlements*, those great bulwarks of a society of privilege against which the royal governments of the *ancien régime* had never been able to prevail for long. In autumn 1789 it was decided to disband them. Only for a temporary period were the members of a few – much reduced – chambers to remain in service, in order to settle pressing court actions. Some provincial *parlements* ventured to protest. Their protests, however, met with 'general disinterest'.<sup>96</sup>

About 800 out of a total of some 2,000 *parlementaires* are thought to have emigrated. Some of those remaining lost their lives – especially in Toulouse, Paris and Bordeaux – while a few more found their way into public service. The majority, however, retired to their estates and only returned to public life under Napoleon, if indeed they did so at all.<sup>97</sup>

Just as with the destruction of personal monarchical power, so too with that of private disposal over generalised power the process was not one of a *limitation* on private disposal of office – as for example with the English Justices of the Peace – but rather an abrupt revolutionary cut-off. These ruling positions were entirely abolished, along with the forms of rule and systems of

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<sup>94</sup> Bosher 1989.

<sup>95</sup> Sewell 1980.

<sup>96</sup> Stone 1986, p. 252.

<sup>97</sup> Stone 1986, pp. 252–7.

law on which they were based. Newly created units of administration were established in place of the provinces. All intermediate powers were swept away. In France it was not 'the people' in the German sense of *das Volk* that came to government in historically evolved hierarchical structures, but rather 'the nation'. Every kind of privilege, along with differences of culture, law and language, had to give way before this abstract aggregate. As far as the form of rule was concerned, the French Revolution started initially from *tabula rasa*. When it came down to staking out the outlines of the new order and establishing themselves within it, interests could be asserted that had arisen before the Revolution, and whose bearers then successfully jumped from the old ruling stratum into the new one. But this in no way affects the immense structural importance of the revolutionary break.

#### *The state bureaucracy*

From now on, everyone acting for the state would be paid by the nation and duty-bound to it in this way. From a crudely materialistic perspective, it might appear as if the transition from office property to salary did not necessarily involve a loss of income. But state power cannot be analysed in this way. Not only would it mean ignoring the tremendous shift that it meant for proud office-holders of the *ancien régime* to exchange honourable, 'unrewarded' service for the king for the status of a salaried employee, let alone give up activity in the state service altogether; it would also ignore the fact that the preconditions for the exercise of office power had changed. After the Revolution, state employees who demonstratively opposed instructions from the government were no longer simply exiled, but disciplined or dismissed. The obstacles on which most reform plans of the royal governments had come to grief no longer existed. For, with the abolition of property in office, an end was equally made to the legitimate occasions for orienting the exercise of office power to opportunities for material and social profit. The abolition of office property, combined with the abolition of estates, facilitated the introduction of a bureaucratic hierarchy. Boshier reports that noble *intendants* had refused to follow the instructions of the bourgeois Necker, finance minister though he might be.<sup>98</sup> A rank order of competences required removing the dominance of a rank order of origin.

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<sup>98</sup> Boshier 1989, p. 249.

Even under the *ancien régime*, there had been paid employees in the royal administration. Since 1787, and particularly 1788, this held also for high officials in the financial administration, but overwhelmingly it was a matter of subordinate staff. The employees of the administrative offices were taken on and paid by the office-holders, and they were also responsible for their actions not to the crown but to these private overlords. The Revolution abolished all contracts of this kind, but many employees who had up to now performed the greater part of the actual administrative work were integrated into the new administrative structures – in some cases whole departments.

When the *intendants* were abolished in 1790, and new municipal and departmental administrations established, resort was made to the structures of provincial and municipal assemblies that had been introduced before the Revolution in the *pays d'élection*. At first, authorities were established with elected members. Under the dictatorship, these commissions were compelled to send in regular reports, and an attempt was made to restrict their independence by strict controls and sometimes even terroristic measures. This practice was designed to prevent federative tendencies as well as *sans-culottes* radicalisation. Under Thermidor and the Directory, the electoral structures remained in place, despite reinforced bureaucratisation and the 'strike of the elected'. Napoleon abolished them, and transferred command of the re-organised bodies to prefects. The attempt begun in 1789 to construct the national administration in the form of a machine, with its mode of operation affected as little as possible by local differences and influences, now approached its culmination. As a matter of principle, prefects were never sent to their region of origin. But this principle could not be completely upheld,<sup>99</sup> and neither – it goes without saying – could local influences be avoided. The strategy is significant, all the same, and characteristic of the structural development of French society. No one could have had the idea in England, at the end of the eighteenth century or in the early decades of the nineteenth century, of constructing an administration on the lines of a mechanical system. No administrative reformer developed plans that came close to the French reality. In France, the possibility of a compromise with the existing powers vanished in the forms of motion of the revolutionary public. There was no gradual merging of old and new layers of power, but the members of the old ruling stratum were allowed to participate

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<sup>99</sup> Whitcomb 1974, p. 1098.



in competition for positions, influence and political power in the newly created conditions.

*Nationalisation of the financial administration*

The financial 'administration' of the *ancien régime*, as we have seen, essentially consisted of business connections that the crown maintained with its own financial 'officials' and with the farmers of its taxes. The Revolution dissolved these connections and the contracts were annulled. The material possibility for the nationalisation of the financial administration and the state debt resulted from the state confiscation of church property and the possessions of émigrés. A newly established *caisse de l'extraordinaire* issued interest-bearing debt certificates [*assignats*] that could be redeemed by the purchase of 'national goods', as the confiscated properties were known. In organisational terms, once the tax farm was abolished along with the countless special taxes, the question was to expand the reform of the financial administration that had already been begun before the Revolution. The many separate funds were combined into a single consolidated fund, tax collection was entrusted to civil servants, and the *caisse d'escompte*, set up to place the *assignats*, extended credit to the government. The plan seemed realistic, but early in 1790 the government already found itself forced to make a new issue of *assignats*, and a further issue followed in September. In the meantime the *assignats* had circulated with a face value of 200 *livres*, and the value of national goods was estimated as 3 million *livres*. With the issue of September 1790 the interest on *assignats* was abolished, thus transforming these effectively into paper money. The slow pace of tax collection and the costs of the war led in the following years to an increasing expansion of currency. By August 1792, the nominal value of the *assignats* overtook that of the national goods. In 1793, the Convention decided that *assignats* would henceforth be the sole legal tender. Ever new monetary issues reduced the value of the *assignats*. In 1796, this fell so low that 100 *livres* in paper money was now worth only 6 *sous*.<sup>100</sup> By 1797, the inflation was so catastrophic that the Directory decided on a partial state bankruptcy. *Mandats territoriaux* (in fact, *assignats* in the original sense of the term) were given out for the existing *assignats* at a ratio of 1 to 30. As a demonstrative measure, the printing presses that had been used to print paper money were destroyed.

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<sup>100</sup> Brugière 1986, p. 116.

This measure helped little, for the *mandat territorial* now also lost value. A return to metallic currency was indispensable.

The inflationary process meant an evaporation of state credit. But since the demands of the war had to be financed, the governments that followed Thermidor were forced to give up the attempt to restrict profits on the state debt to the interest on state paper. From now on, financiers, bankers and merchants were once more charged with procuring munitions and provisions for the government on their own account and at a profit. There was once again a realm of state administration that might be described as ‘para-public’,<sup>101</sup> and the firms and individuals active in this sector were those with long experience of such matters. Only after 1815 was it possible to nationalise state credit once again. In the meantime, however, there was no fallback – despite everything – into the previous conditions. On the one hand the governments did not enter into business relations with their own officials, and on the other hand the reformed financial administration made possible a control of private business people that had been impossible before the Revolution. When the financial administration had to be reformed again after the end of the Napoleonic wars, it was not necessary to undertake afresh the work that Necker and the Constituent Assembly had carried out.<sup>102</sup>

### *Nationalisation of armed force*

In the last decade before the Revolution, the supremacy of the nobility in the officer corps and the monopoly of the wealthy bourgeoisie in junior military posts was sanctioned by law. In these years, however, the possibility of seeking officer commissions as a lucrative career was narrowed, and the control of their activity by civilian military administration was strengthened. These reforms made it possible to assert military command by a change in leading personnel. The bourgeois junior officers, who in any case had performed most of the work, were not only willing, but immediately capable, of replacing the former officers, and this *revirement* of personnel could be carried through all the more easily in that more than half of the king’s officers emigrated.<sup>103</sup> The first of these left France already in autumn 1789, while the largest wave followed

<sup>101</sup> Brugière 1986, pp. 132–7.

<sup>102</sup> Bosher 1989, pp. 265 ff.

<sup>103</sup> 61 per cent, according to Bergeron and Chaussinand-Nogaret 1979, p. 33.

after the king accepted the new constitution in September 1791. Between September and December of that year, more than 2,000 officers left the country. Others gave up their positions when Jacobin agitation spread in the army and democratic structures were introduced. At the apogee of the *sans-culottes* movement, officers of noble origin were still tolerated only if their political reliability was beyond question.

The rise of bourgeois junior officers into the positions that now became free did not in itself mean a change in military structure, but it made this more easy to accomplish. The revolutionising of the army was carried through in two stages. The first of these was that soldiers were drawn into a political public that was itself revolutionising. This began as already explained in summer 1789. From summer 1792, politicisation was driven forward to the extent that the army of Year II was no longer simply an instrument of the government. Instead, the notion developed, along with the use of the familiar *tu* between soldiers and officers, that soldiers had the same right and duty as civilians to take part in deciding national politics. The spread of such ideas was favoured by institutional changes, in particular the organised merger of the volunteer battalions into regiments of the regular army that was known at the time as 'amalgamation'. This process was concluded in 1796. It meant more than a merely formal re-organisation. The integration of volunteers who were generally politically active abolished the former 'esprit de corps' in the amalgamated regiments. Companies were no longer described by the names of their officers, and soldiers were no longer the soldiers of an officer, but soldiers of the nation.

The nationalism that developed in the army was both precondition and consequence of military victories, and thus also of the professional pride of the soldiers. In 1793, when the amalgamation was introduced, the regular army contained no professionalised soldiers,<sup>104</sup> since almost two-thirds of the regularly recruited soldiers had at that time had less than four years' service, and over a third less than one year. Their service terms and training thus very largely matched the length of service and training of the volunteers of Year II. As service length extended, long absences from home and the experience of many battles and campaigns professionalised both soldiers and officers of the

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<sup>104</sup> Scott 1978, p. 183.

national army. The military profession acquired such great importance that under Thermidor it could serve as legitimisation for the abolition of democratic structures in the army. This was certainly not effected without resistance, but professionalisation and depoliticisation of the soldiers facilitated the implementation of strategies aimed at increasing the power of the officers. After Thermidor, senior officers generally enjoyed a far greater power of command than had their counterparts under the *ancien régime*. For not only were soldiers now subjected to effective military command, but all former autonomies of junior and middle ranks of the officer corps were removed. This *instrumentalising* of military power was a structural precondition for the military putsch of 1799. Under the *ancien régime* this would have been simply impossible.

### c.3. *Destruction of the ancien-régime church*

During the Revolution, many churches were destroyed, and others turned into storehouses, workshops or administrative buildings. Priests were forcibly married, they were persecuted, banished or executed. Place names were changed if they had borne the name of a saint, and in many places symbols of religious belief were mocked and destroyed. The de-Christianising practices of Year II were draconian, and, with the new calendar, the Revolution separated historical dating from the Christian doctrine of salvation.

Yet it was scarcely ten years later that a concordat recognised Catholicism as the faith of the majority of French people. Already by 1794, many priests were back in office, in 1796 the church was handed back its almshouses and the right to run these, and it subsequently had increasing influence on basic education. Many parts of the country witnessed a new upswing of religious sentiment. What then was the permanent content of the 'revolution in religion', apart from the abolition of church tithes and the introduction of civil-servant status for priests?

Until autumn 1792, the revolutionary measures had not aimed at de-Christianisation, but simply a reform of the church. The church's power of appropriation was removed, its property nationalised, and the privileges of the First Estate abolished. But the clergy were to be paid by the state, as long as they accepted the new order. The intent was to destroy the church of the *ancien régime*, including its connection with Rome, and to organise a

new – national – Catholic church. This process went hand-in-hand with the destruction of personal monarchical rule. Just like the king, the former owners of clerical offices would be offered the opportunity of integration into the new order. We now know that the decision for or against the oath that was demanded for the first time in 1792 was scarcely a matter of individual conscience, but far more of specific local conditions.<sup>105</sup>

This subordination of the church to the ‘nation’ not only continued the Gallican tradition, but also developments within the church of the last century before the Revolution. Since even parish clergy now received an adequate training, they developed, as Michel de Certeau wrote,<sup>106</sup> into a kind of administrative official for religious affairs, with specific professional interests. These interests had increasingly to be legitimised by reference to reason. The clearest expression of this development was the *pedagogisation* of the church, as expressed in its increased educational activity and its involvement in social welfare. Already before the Revolution, many of the clergy had put great store on presenting the church as an institution that could be useful for the good order of society – even though the content of this was no longer defined by the church itself. Against such a background, both clergy and laity could understand the first revolutionary measures as a liberation of the church from inappropriate structures, and the establishment of institutional preconditions for the development of a *religion civile* (de Certeau) or quite simply of piety. But those clergy and laity who opposed this development right from the start were soon joined by many others. Even in the first year of the Revolution, the church was stripped of its possessions and its privilege of tithes, religious orders were disbanded and a series of parishes abolished.<sup>107</sup> From autumn 1792, strategies were pursued that aimed to destroy the cultural tradition of religious practice to make room for the new culture of citizenship. The state withdrew registers of birth, baptism and death from church administration, and decreed that marriage should henceforth be a civil relationship that could be registered by a state official. The *sans-culottes* expanded these strategies by violent actions against symbols and practices of religious belief, and against those who adhered to the church. Whereas in 1792 many *sans-culottes* had

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<sup>105</sup> Tackett 1988, pp. 579–602.

<sup>106</sup> Certeau 1972.

<sup>107</sup> Pillorget 1985, p. 387.

demanded that churches already closed should be opened at Christmas,<sup>108</sup> in 1793 they combated everything that was even remotely reminiscent of Christianity. Their practice in many places was so gruesome that the government feared being unable to control this and banned it, with less than complete success.

The de-Christianising provoked counter-reactions. Many people rediscovered a connection to religion and the church during the Revolution. For many of them, it also played a role that the violent de-Christianising was carried out chiefly if not entirely by people from the towns, and directed against cultural forms that were particularly widespread in the countryside.

On balance, the Revolution had two opposite effects: an upswing of religiosity and an accelerated secularisation of politics. Religious practice was boosted by the fact that after the Revolution the church offered scarcely any further occasion for a brilliant career. (The notables of the Restoration era included only a very few clerics.) The recruitment pattern of church personnel accordingly changed. It was also relevant in the Catholic church that believers were forced for a while to organise their religious practice on their own. For a certain time, the influence of the clergy on religious practice remained limited. In the countryside, above all, a popular religion developed in the years after de-Christianising in which official church doctrine was mixed with traditional contents of peasant culture. Saints were venerated, pilgrimages became annual high points of religious practice, and the cult of the Virgin Mary grew beyond all former bounds. Among the educated classes, too, the character of religion changed: it was romanticised. When the clergy regained power of definition over religious practice, the ceremonial aspect was reinforced in such a way that both the idea of religion as a matter of sentiment and the veneration of saints could find a place in it. Even the ultramontane tendencies that always found a certain support in the church could be integrated. Instead of an actual saint, the ultramontanes venerated the pope.

But the Revolution not only provoked a renewal and change in religiosity, it also accelerated the process of secularisation. Firstly, because the anti-Christian propaganda did not remain without effect, and secondly, because, in the years of revolution and war, very many more people left home for longer periods than had previously been the case. Under the *ancien régime*,

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<sup>108</sup> Bertaud 1983, p. 97.

Catholic practice had been, especially in the countryside, a component of the dominant culture. Long absence meant the loss of this practice, and with it the unquestioning character of their religious foundation. Around the mid-nineteenth century, when increasing numbers of people went to work in the towns, this process of secularisation accelerated. It did not affect all strata of society simultaneously, but was structured differently by class and stratum, sometimes with local particularities.<sup>109</sup> J.W. Moody maintained that the French working class by and large ceased to be religious in the second half of the nineteenth century.<sup>110</sup> At the same time, a demonstrative Catholic practice was strengthened in part of the higher bourgeoisie. These developments are beyond our present remit, but two of their constitutive elements should be emphasised, as they fall within the analytic framework of this work.

Firstly, as already mentioned, the socially stabilising effect of religion was already recognised during the Revolution. At first, with the destruction of personal royal rule, 'God' was dismissed from his function of legitimising rule, and the public power programmatically founded as a secular one. This power was legitimised by the empirical or postulated will of the people. (If the pope travelled to Paris in 1804 for the coronation of Napoleon, this lent an already established rule a certain decorum, but nothing more.) Certainly, in the years of Revolution, a 'transfer of the sacral' (Mona Ozouf) was attempted, and this transfer later succeeded in the form of nationalism. But increasingly the political utility of religion was recognised – and specifically that of the religion handed down. The speech that Portalis delivered in Germinal of Year X – he was, as de Pressencé wrote,<sup>111</sup> a kind of minister of religion – took up the arguments of Robespierre that have been cited above. 'All rational beings must admit,' Portalis maintained, 'that a good society is not possible without morality, and that for the time being it is impossible to do without judges and laws. Does the utility and necessity of religion, however, not follow from the necessity of morality?' He continued that even if the state protected religious tenets that were false, 'these have at least the advantage that they take up the place that reason leaves unoccupied, and that speculation undoubtedly fills far less satisfactorily'.<sup>112</sup>

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<sup>109</sup> Lagrée 1979, p. 159.

<sup>110</sup> Moody 1958, p. 54.

<sup>111</sup> Pressencé 1978, p. 520.

<sup>112</sup> Pressencé 1978, p. 521.

Secondly, after the turn of the century, the higher clergy associated themselves as far as they could with the 'better circles' of society, and the heads of the clergy were even received at court, as in former times. In the course of the nineteenth century, the partisanship of the higher clergy in support of property and order actually increased, especially as priests felt obliged to combat socialistic tendencies. By the end of the century, the French clergy had been reintegrated into the ruling strata and the cultural forms of the practice of rule – albeit on a different basis. This finally achieved what August Comte had already championed in the mid-nineteenth century and had served as the starting-point for the political strategy of positivism. The reconciliation of order and progress – in other words, the stabilisation of a social dynamic that had been founded by the Revolution and newly accelerated by the capitalising of social relations – could no longer be performed by Catholicism.<sup>113</sup>

#### c.4. *Dissolution of the ancien régime of appropriation*

At the time of the Revolution, around a third of the cultivable land had been in peasant ownership. During the revolutionary years and in the decades that followed, this proportion increased, while the greater part of the French population continued to live from peasant production. The development of agricultural production also continued to follow traditional practices after the Revolution. Strategies of extensification were more widespread than attempts at innovation. This is so despite the fact that an increasing number of nobles went over to cultivating their lands on their own account. The few modernisations that had been implemented before the Revolution – for example the commercialisation of forestry – were interrupted for a lengthy period. There were as always large regional variations. On the whole, however, agricultural production stagnated until 1815, and even afterwards the rise in productivity was far from rapid.

Manufacturing production continued to take place in smallish workshops. The war led to many branches of production experiencing a sharpening of the crisis of demand that had already been felt in the 1780s; only a few branches profited from the war, or from the continental blockade. The devastating economic effect of the Revolution is most clear – as has recently been so often

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<sup>113</sup> Comte 1979 [1844], Part 2.



pointed out – in the field of colonial trade, and foreign trade in general. It took two decades until the level of the 1780s was re-attained. Domestically, too, the removal of duties and tolls did not accelerate the development of trade.

As far as economic development in the nineteenth century is concerned, in recent decades the prevailing view has been that it is vain to look in France for the ‘take-off’ in industrial development that scholars long supposed to be so necessary, since industrialisation here took the form of a slow but steady spread of manufacturing production. But if the ‘development of capitalism’ is seen as measurable simply in terms of production figures, the question of the transformation of the social structure of labour relations is generally ignored.

The French Revolution did not establish a capitalist society, and it quite definitely did not accelerate agricultural or even industrial development. But it did destroy – with one important exception – the forms of the *ancien régime* of appropriation. This change, however, found little expression in relations of property and income. Following the widespread tendency in historiography to try and measure the importance of institutional changes in quantitative terms – hectares and francs in this case – it needed the influence of ethno-methodology to properly perceive once again the revolutionary break.

In the course of the *ancien régime*, private and corporate rule in the form of privilege was transformed. Along with those privileges that had from the start been granted or acquired in this form, these became a form of property that was specific to the *ancien régime*. Privileges could be bought and inherited, but they also were granted, and access to the market in privileges remained socially restricted.

The coexistence of privilege with other forms of property, however, did not result simply from its commodity character. Rather, there also existed property that had not been inherited or acquired in the form of privilege, in very many cases as a ‘publicly’ regulated right. A certain kind of property – whether possession of tools for artisan production or land for agricultural production – placed its possessor in a regulated social relation. What was decisive here for the social status of a family and an individual was not their level of wealth, but rather their form of property. Under the *ancien régime*, there was also private property in the modern sense of the term, but this was not yet structurally decisive, despite its considerable quantitative extent. When the Revolution removed privileges, it transformed property from a form of

right into an objective relationship. This did not capitalise social structures, but it did objectify them.

On the night of 4 August 1789, the legitimisation of privileges was destroyed. Seigneurial jurisdiction and office property subsequently disappeared without resistance, while, in the case of other privileges, the attempt was made to save them by shifting them from the sphere of 'public' right (sanctioned by generalised power) into that of private right, thus defining them as property *sans phrase*, surrender of which would thus create a claim for compensation. There were many peasants who had hoped before the Revolution not only for the removal of privileges, but for an agrarian reform – described at this time as an 'agricultural law'. Yet they continued to be burdened with tithes and a whole series of dues that were often not just materially irksome, but socially discriminatory as well.

In the case of office property, there were indeed some protests from the provincial *parlements*; on the whole, however, it was obvious that the only alternative was either to renounce income from office entirely or to adapt to the new conditions and become salaried employees in the service of the nation. The *loi Allarde*, which abolished guilds in 1791, followed from the *political* logic of the Revolution; it was not passed because guild organisations no longer corresponded to the level of development of the productive forces, or because a sufficiently strong social group had demanded their abolition. The *loi Allarde* and the subsequent *loi Le Chapelier* did not effect any notable changes to the technical structure of production, since in 1789 there was no supporting group for capitalist development whose activities were obstructed by the guilds; what happened, rather, was that the fall of office property, of tithes and seigneurie, unavoidably brought that of guild privileges along with it.

By removing the proprietorial character of privileges, the Constituent Assembly separated property from the social context sanctioned by power in which it had formerly existed. In this way, enjoyment of property passed to the possessor of this property. If before the Revolution property had been a 'publicly' regulated social relation, the Revolution converted it into a component of objective relations. (So that it needed a *critique* of these existing relations for Marx to describe capital as a social relation.)

The effects of this transformation process can only be sketched out here in broad lines. The abolition of office property did not mean that the 'surplus' product extracted did not continue to accrue to private individuals by way of

generalised power, and indeed to a greater degree than before. Yet it would be wrong to follow Comninel when he writes: 'The role of the state as an instance of extra-economic extraction of surplus value was neither questioned nor ended by the Revolution'.<sup>114</sup> Even if – in purely material terms – investment in possession of office had to be replaced from now on by investment in education, the conditions for the practice of generalised power altered – as already explained – once public service had come to replace the owners of offices and their employees. The content of 'government' likewise altered. Before the Revolution, governments had to try and obtain a clientele among the owners of the royal means of power; after the Revolution, they had to maintain their basis among the electorate.

The abolition of guild privileges meant the privatisation of labour relations. Conflicts were no longer now between the holders of various rights, but rather between owners and non-owners of means of production and manufacturing permits; they were no longer the affair of a corporation, but a private labour relationship. The courts in this connection, too, were no longer places where holders of various rights encountered each other formally. After the Revolution, therefore, the number of such court cases fell dramatically. The Revolution, as Michael Sonenscher writes,<sup>115</sup> changed the institutional context in which labour relations were based and developed. From now on, there were no longer set wages that had to be adhered to by all masters of a guild, no rights to definite meal breaks and to certain forms of mutual respect between guild members. Or, rather, wherever claims of this kind still persisted after the Revolution, they had to be made by journeymen and apprentices outside of the corporate context. As William M. Reddy has shown, the 'rights' of workers in the productive process had still not been completely abolished in practice even at the end of the nineteenth century, and capitalists still had to struggle to assert their power of command over the production process;<sup>116</sup> but, already in 1791, the conditions for such disputes fundamentally altered. This change was expressed in linguistic usage. Before the Revolution, there had been much talk of freedom and the refusal to be treated as slaves, but after the Revolution, the discourse of solidarity spread. For, after the dissolution of the

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<sup>114</sup> Comninel 1987, p. 204.

<sup>115</sup> Sonenscher 1989, p. 293.

<sup>116</sup> Reddy 1982, pp. 77–107.

forms of property of the *ancien régime*, it was workers' solidarity that formed the basis for their pursuit of common interests. For this reason, the combinations of the nineteenth century – which had been made illegal already by the *loi Le Chapelier* of 1791 – were not just a continuation of those of the eighteenth century, but were combinations of interests in opposition to the similar combinations of masters (also illegal under the same law). The so-called *rixes*, battles among workers that the police reports of the first decades of the new century are full of, make clear how even competition between workers had been 'deregulated'. When Agricol Perdiquier, known as Avignonnais Le Vertu, called on his fellow workers to leave off such battles – which had become an obligatory ritual – and instead struggle together for work and bread,<sup>117</sup> he still found little response. Only after the mid-century, in changed economic conditions, did modern forms of representation of interest replace the cudgels and fists that workers had wielded against one another.

Many authors equate the abolition of *seigneurie* with the abolition of collective peasant usufruct.<sup>118</sup> But collective peasant usufruct was a major exception from the principle of absolute private property, with long-term structural effects, being certainly a property in the form of privilege. There were indeed landowners who sought the abolition of collective rights. A decree of 5–12 June 1791 claimed – wrongly in terms of legal theory, but instructive precisely for that reason – that the territory of France was as free as the individuals who inhabited it.<sup>119</sup> It was in this way that the revolutionaries founded their commitment to the 'emancipation' of land from the 'un-freedoms' imposed on it under the *ancien régime*, so that the freed land could be transferred to the free disposal of free individuals. In fact, however, there were even many deputies in the National Assembly who hesitated about making such a radical intervention in the rural social structure. The law of 1791 (28 September/6 October) also retained the rights of *vaine pâture* and *parcours*. Although it was not just landowners, but also peasants who mainly cultivated their own land, who were opposed to general pasturage and droving rights, these collective peasant rights remained protected by law for a further hundred years. In 1791, the free power of disposal over property in land was only established

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<sup>117</sup> Perdiquier 1840, p. 212 & passim.

<sup>118</sup> For example, Sédillot 1987, p. 81.

<sup>119</sup> Cited after Jones 1988, p. 131.

by law in so far as owners were allowed to enclose their land (and in this way restrict peasant usufruct by an additional investment), have their own cattle graze separately from the common herd, and depart from the locally established rotation of crops. None of these freedoms, however, was implemented in practice right away.

The question of common land was particularly contested. In principle, there were to be no more mixed property rights, and former common land was thus to be privatised. It was initially decided in 1792 that common land which seigneurs had appropriated should be returned to the community. The Constituent Assembly could not agree however on the appropriate way to make this 'partition'. In many places, peasants undertook the partition themselves. Finally, in June 1793, the Assembly decided that common land should be divided up if at least a third of the villagers were in favour. For a long time, this law was seen by historians as the origin of the reinforcement of small peasant agriculture. In actual fact, however, as P.M. Jones sums up more recent research,<sup>120</sup> only a small part of common land was divided. The *partage* was left incomplete, writes Jones, because it was really in nobody's interest. The better-off peasants feared losing cheap labour-power if poor peasant families received enough land for them to reproduce themselves without wage-labour. Poor peasants, for their part, found that a small and isolated parcel of land was little use to them, and finally the *partage* presupposed that there were alternative grazing opportunities. The end result, according to Jones, was that, after the Revolution, even more peasants enjoyed collective usufruct rights than before.<sup>121</sup>

One key part of the appropriation structure of the *ancien régime* thus remained in place. It enabled even those peasants who had not received any 'national goods' to continue reproducing themselves as peasants. In many regions of France, the social structures of peasant society remained intact from the late eighteenth century until the Great War;<sup>122</sup> everywhere, practices of self-sufficiency only gradually declined in the course of the nineteenth century. By defending their collective rights, both those formally guaranteed and those formally annulled, peasants set limits to strategies of agricultural mod-

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<sup>120</sup> Jones 1988, p. 148.

<sup>121</sup> Jones 1988, p. 258.

<sup>122</sup> Claverie and Lamaison 1982, p. 299.

ernisation. To this extent they played a part in the emergence of the social type of the landowning notable (often noble) of the early nineteenth century. By making strategies of capitalisation more difficult, they confirmed in their own way the self-consciousness of the notables that they were eminent lords – in the traditional sense – and that income from landownership was still something quite other than income from other kinds of business.

The Revolution established the private character of property and the objective structure of economic relations between persons, but only in principle and not completely. Taken as a whole, however, a separation of economics and politics can be maintained. The reduction of rule to politics and to paid activity separated the state from society.

#### **d. Emperor, king and notables: the French constitution of the bourgeois state**

When Napoleon became emperor, he surrounded himself with a court, and his court ceremonial included the ruler's traditional *lever*. There was also a new stratum of nobles. When the Allies sent Napoleon off to Elba, and appointed Louis XVI's brother as king (the *dauphin* having died in childhood), this Louis XVIII had the palace of Versailles restored and proclaimed he was king by the grace of God. William Crawford, the American ambassador in Paris, saw all this as ridiculous pretence.<sup>123</sup> But, even after the hiatus in his reign caused by Napoleon's temporary return to power, Louis XVIII continued to present himself as a king of the *ancien régime*. He had scrofula patients brought before him to lay hands on as befitted a French king.<sup>124</sup> But no more than Napoleon restored personal rule<sup>125</sup> did the Allies restore the monarchical rule of the Bourbons after Napoleon's final defeat.

No king of the *ancien régime*, not even Louis XIV, had anything like as much power as Napoleon. Napoleon was in a position – for a time – to command the public power of 'the nation' and make use of a state apparatus that had been formed by the Revolution as an instrument of government. The structure of the centralised administrative state arose from the revolutionary

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<sup>123</sup> Sutherland 1966, p. 35.

<sup>124</sup> Bloch 1961, p. 440.

<sup>125</sup> According to Lefebvre 1969, p. 1.

destruction of all intermediate powers, and from the prevailing practice, since the Directory, of using the administration as an instrument for the regulation of the political public. This political instrumentalisation of the administrative apparatus made it possible for senior state officials to construct a position for themselves that protected them against political changes. When Napoleon fell, the administration remained. Since the politically influential strata of society long tried to prevent the practice of state power being subject to the control of a broad public, state officials were able to appropriate considerable competence of definition over their own practice in office. The roots of the French *nomenklatura*, as Alexander Wickham and Sophie Coignard describe the present-day stratum of top administrators,<sup>126</sup> grew out of the French form of bourgeois revolution.

A second structural feature of French political development was the destruction of the political and cultural hegemony of the nobility by the Revolution. There continued to be for the entire nineteenth century a remarkable number of citizens in leading positions – especially at a local level – who boasted a noble title. The attraction of such a title continued to be high enough for many families to make great efforts to add a *particule* to their name, which in due course was taken as a predicate of nobility. In this way, Delatre became de Lattre de Tassigny, Franchet Desperet became Franchet d’Esperey, and Giscard became Giscard d’Estaing.<sup>127</sup>

If forms of noble rule were not restored in the post-revolutionary society, nor did any effective unity of the noble stratum arise, this can be ascribed most readily to the fact that those noble families whose predecessors had been included in the Second Estate before the Revolution, very quickly composed themselves into a culturally exclusive social group. Their members oriented themselves to their traditional professions, married almost exclusively within their own ranks, and developed habitual forms of behaviour by which they liked to distinguish themselves from the *parvenus*. At the local level, they sometimes even practised forms of their earlier rule. Many a noble family still continued to defend for a long time the privilege of not having to sit among the common people in church. Precisely because the legitimacy of a ‘noble lifestyle’ had been permanently destroyed by the Revolution, the symbols and

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<sup>126</sup> Wickham and Coignard 1986.

<sup>127</sup> Gibson 1981, p. 6.

phrases of noble culture could much later become widespread as a decorative element in mass culture.<sup>128</sup> But the 'prince of dribble', or 'Princes' dry cleaning', has nothing to do with the actual exercise of noble rule. The contents of that certain 'distinction', which demands more respect in French society than in any other bourgeois society, were determined in France by actual social struggles, and not – as in England – by a long hegemonic noble culture.

There is one respect in which the thesis of the unity of notables that was current for a while among historians can be vindicated. The experiences of the Revolution united the materially and politically dominant strata of France for a long time in an effort to control the 'people' as effectively as possible. This effort was so substantial that not only was the right to take part in political decision-making drastically curtailed, but even the formal universality of the bourgeois state was for a time abolished. The reintroduction of the *livret* (workbook) in 1803 established a legal inequality of citizens, and the formal favouring of the testimony of masters in cases of labour conflict – in the 1804 *Code Civil* – even meant inequality before the courts. The order to possess a *livret* and present this to the police on each change of address was extended to women in 1851, and remained in law until 1890. The legal favouring of masters' testimony continued until 1866. The *citoyens* and *citoyennes* who had explained to others how a citizen was to live were transformed by the ruling strata of the post-revolutionary society into members of the 'dangerous classes'.

Were they actually dangerous? As a result of the Revolution, many of them still had strong republican sentiments in the early nineteenth century and beyond. We can just give one of these republicans the final word here. In Floréal of Year XII (May 1804), François Léon appeared in court. He had gone to the prefecture of police in Paris for his *livret*. Although, as he said, he had concluded that he had no alternative but to bow to the new rules, he could not restrain himself from political comments. When he was arrested, he was found to have little notes insulting the emperor and criticising the political situation. In the hearing, he explained that he wrote these notes himself and stuck them on the walls of buildings, so that it looked as if people shared his opinions. Asked for his reasons, he explained:

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<sup>128</sup> Negroni 1974, pp. 20, 75.



I am very republican. I am told that the first consul is now emperor. That doesn't suit me at all.... I am told that we are free, but no one really is free. The workers are forced to have *livrets*, but one can manage perfectly well without them...

François Léon was locked away. In July his sister appealed for clemency. The result of this and the length of his sentence are unknown.<sup>129</sup>

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<sup>129</sup> Cited after Sibalis 1982, pp. 294–8.

## **Part Four**

### **Results of the Historical Comparison**



For neither of the two national developments investigated here is it possible to explain the historical rise of the bourgeois state in terms of the functional requirements of economic development. Besides, neither the point in time at which the societies of the 'ancien-régime' structural type studied here were revolutionised, nor the political form in which this took place, was determined by the degree of capitalisation of the relations of production. The most important structural preconditions for the crisis of personal rule rather resulted from the manner in which the members of the privileged estates acquired, maintained and defended their ruling status.

The emergence of personal rule and the change in its practice was a process in which everyone was involved, from the king, through the nobles, down to peasants, soldiers, beggar-men – even women who are left out of such nursery rhymes. Their respective actions naturally had varying prospects of success. Of the many different preconditions that were present in generalised social practice in the epoch of the *ancien régime*, one in particular needs special emphasis: the distribution of rule-holding among the lords. If this was not completely contingent in relation to the social organisation of production, it was indeed largely so. It created quite specific conditions, moreover, for the development of the nobility and along with this the handling of crises of rule. To avoid misunderstanding: this chapter will

deal less with the *general* causes of the revolutionary processes that led to the emergence of bourgeois state power, than with the structural preconditions for the varying character of the bourgeois revolution. To anticipate one important result, though the structural preconditions for the handling of crises of rule that arose in the course of the *ancien régime* did not determine the actual course of the transformation process, these did set the context within which concrete social practice could develop.

## I. The conditions of personal rule in England and France

### *Structural differences between 'manor' and 'seigneurie banale'*

The most important difference in the present connection lies in the extent of royal or princely rule over the distribution of power competences and land.

When the Norman duke and his barons conquered England and drove the indigenous aristocracy from power, rule over the entire kingdom, its land and its people, fell entirely to the new king. He granted tenancies to his barons. Taxation and the organisation of general arming was carried out on his orders, and he also decreed that the existing forms of local judicial practice should be continued. Attempts by particular barons to expand their estates and appropriate legal competences were not completely prevented, but the structurally determining fact was the ability of the Norman-Angevin kings to grant tenancies as 'gifts with obligations'. These gifts were both conditional and limited. Conditional, in that they demanded loyalty and allegiance – including the provision of armed men for the king's undertakings –, and limited, to the extent that disposal over generalised fiscal, legal and military competences was not privatised.

The manorial form of rule, in which lordship in England became institutionalised in the course of the twelfth century, served the English barons as the form of *seigneurie banale* served the French *sires*, to maintain and expand their competence of appropriation by the threatened and actual use of force, both over those peasants who had already been forced into dependence before the Conquest, and over those who were at that time still free. In many cases the lords of the manor succeeded in incorporating village judicial practice into the manorial courts that they increasingly transformed into an instrument of rule. The *regalia* however continued to belong to the king alone. From the

second half of the twelfth century on, judicial practice in the counties was generalised in the common law, the law of the king, and organised as he decreed. Even if the king's officials made use of local lords, and the latter often felt sufficiently obliged to help members of their household to a favourable decision by a demonstration of armed force, the extent of royal rule restricted the manor to a principally economic form of power. From the reign of Henry II (1154–89), free peasants had the right to complain to the king's courts even against their own lords. That many of them fought for this free status shows that it was more than a mere formality.

If we take feudal relations as a measure, England was the most thoroughly feudalised kingdom of the late Middle Ages, but, if the concept of feudalism is seen as involving a parcellisation of generalised power competences (what historians often retrospectively describe already as 'sovereign' competences), then England does not fit this picture, since the competences of lordship were both guaranteed and restricted by a generalised royal power that was founded on armed force.

Generalisations about 'France' have to bear in mind two important facts. The form of *seigneurie* that was implemented from the tenth century, and especially in the eleventh, also subjected previously free peasants to the power of lords, and by the use and threat of armed force and judicial power, reduced their status to that of earlier slaves – many of whom also held land. The second important fact concerns royal rule. Outside of the crown domains – and even there only to a limited extent – the kings of the tenth and eleventh centuries had no power to make use of the prerogatives that their predecessors had appropriated. A generalised fiscal power continued to exist, but its proceeds were competed for by local lords, with the king being largely excluded. In western Gaul, certain princes managed to build castles and thus keep fiscal and judicial power under their control. In other regions, the burgraves who had formerly been agents of the king kept the proceeds of generalised extraction for themselves. Many 'strong men' also made themselves into burgraves and hence possessors of ruling competences. To the south of Burgundy, rich townsmen also shared the possession of local ruling power, in regionally different forms. In general, it is possible to conclude, with a certain degree of caution, that the parcellising of local power increased in the course of the eleventh century, particularly by way of inheritances, so that by 1200 a *seigneurie* often comprised no more than a single parish, while castles had lost their

former significance as organising instances and symbols of ruling power. Not every local *sire* exercised the same degree of seigneurial rule, and the manner in which judicial and fiscal power was graduated differed from that of territorial rule. What is important here is that, while kings succeeded from the thirteenth century onward in making the territorial princes into 'mere barons' (K.F. Werner), i.e. establishing themselves as their lords, this did not put them in a position to integrate the *seigneuries banales* into their own rule.

With this reservation, which should be borne in mind for all the generalisations and tendencies formulated below, we can maintain that the manor tied the status of a family far more clearly to the size of its land-holding than was the case with the *seigneurie*. In 'France', on the other hand, possession of legal rights was of greater significance for appropriation and status. Studies of judicial processes among lords bear out this interpretation: in England, it was questions of holdings that were dominant, while in 'France' the prevailing contention was over rights.

#### *The relation between secular and religious power*

Archbishops, bishops and abbots in England received tenancies from the king. They were obliged to assist him with advice and prayer, and, in most cases, also by providing armed men. There was a separate church jurisdiction, but all disputes over land-holdings were excluded from this; structurally typical for the feudal era in England is the participation of bishops in royal judicial practice and thus the exercise of royal rule. Even if the strength of certain bishops in England very often far exceeded that of secular barons, it remained dependent to a great degree on their loyalty to the king. It may have been politically risky to use the power of enfeoffment against bishops, but the possibility of refusing tenancy if an ecclesiastical choice did not please the king, and the limitation of the secular power of the lords of the church to those rights that other lords of the manor equally enjoyed, provided the medieval English kings with a far-reaching involvement in the exercise of religious rule.

In 'France', the Carolingian church had broken up with the demise of the Carolingian empire. Only in the king's direct sphere of rule did earlier structures of the unity of religious and secular rule still obtain, while the connection of bishops to the king was altogether closer than those of counts and dukes. The tendency in the north of the country was for secular lords to appropriate

disposal over church rule and offices, while in the south bishops appropriated seigneurial power. By and large, in the course of the tenth century episcopal rule was largely reduced to a power of appropriation. There was no counterpart to this in England. Though here too there was a reform movement, in France the rise of the monasteries was far more clearly directed against episcopal rule. With papal support, the monasteries won immunity against this – most clearly in the case of the Cluniac movement.

Nowhere was the papal strategy of subjecting secular lords more successful than in the south of France. In the last third of the eleventh century, the dioceses there fell under the control of papal legates. Once secular lords acquired church governorships, as a way of encroaching on the competences of bishops, peasants found themselves exposed to the claims of competing lords. In the wake of the military-fiscal and eventually also judicial expansion of royal rule, the kings of France finally achieved, but only in the fifteenth century, what had already been the situation in England since the Norman Conquest: the integration of church rule into the structures of generalised monarchical power. The relationship between crown and church, however, remained substantially more competitive than in England, owing to the greater papal influence in France.

### *Preconditions for the constitution of the nobility as an estate*

The generalisation of the monopoly on land has a clear relevance in our analytical framework. The transformation of an aristocracy of *de facto* powerful lineages into a legally privileged estate of landowners was marked everywhere by the manner of princely or royal rule. Where this rule was weak, different conditions for the rise and reproduction of the nobility were established territorially, according to the character of local princely rule.

In England, there were *de facto* privileged nobles already before the Conquest, and to some extent also legally privileged ones. The rule of the Norman barons resulted from the combination of peasant subjugation and royal rule already implemented in 'old England' with the forms of rule that prevailed in Normandy. These last had changed in the first half of the eleventh century. An aristocracy of warriors had developed into a landed nobility. 'Baro' no longer described the men of the ducal court, but only those of the retinue who held substantial land as a fief. In England, this transformation process was accelerated. Barons were the tenants of the king, bound to him by oaths that



were based on the royal power's monopoly of land. The development into nobility as an estate resulted from the generalisation of interests of the tenants-in-chief vis-à-vis the king. In order to achieve the heritability of fiefs, military obligations had to be fiscalised. Monetary obligations could be met even by children and women, and by elderly or sick heirs to a barony. The general sharpening of fiscal exploitation of royal enfeoffment power, though varying in particular cases, provoked a generalisation of the interests of tenants in a regulation of the exercise of this power. In a situation of military defeat and a threat therefore to honour, possessions and the lives of the barons and their families, these interests could be asserted against the crown. Magna Carta in 1215 marked the start of a formalisation of the conditions for the English king's ruling practice. But the generalised fiscal, judicial and military power of the sovereign was challenged neither at this time nor later.

What was formalised first of all was feudal *appropriation*. The direct personal relationship between the king and his tenants was not abolished by this change, but simply integrated into a generalised form. This process of generalisation of the conditions of reproduction heralds the beginning of the development of an estate structure of nobility. The foundation of generalised royal power competence in the land monopoly is still more clear in the determination of membership of the nobility. When all knights were required for the first time in 1286 to swear obedience to the king, knights were defined as those who had been dubbed, and had thus acquired this honour in a material sense. The barons and most of their sons counted as knights, but so did many of their *arrière-ban* along with their sons. Knights in England, already from the late thirteenth century, were therefore not only obliged to their immediate lord or the lord of the 'house' in which they lived, but directly also to the king. This completed the transformation of a military 'profession' into a land-owning estate in connection with the generalised royal rule. In England, the crown obliged all those who obtained a certain level of income from land to have themselves dubbed as knights, and stand at the disposal of the crown for the judicial and administrative practice of royal rule. (Even though in some cases this measure succeeded only in fiscal terms.) This transformation of knights into an estate reached its culmination when representatives of the landowners who were sent to Parliament described themselves as 'knights of the shire' even if they had not been dubbed knights and did not practice the military art. The general characteristic of the English nobility, its constitution as a land-owning service nobility, was already fully formed in the late Middle Ages.

A 'French' nobility developed only two centuries after the emergence of a noble estate in England. Though in Gaul kings continued to be elected who were no stronger than any of the other territorial princes of the kingdom, the symbolic power of the kings that was sanctioned by the church and not generally contested was insufficient to check the transformation of a warrior aristocracy into a landowning one. Yet there also arose in France – in the south, however, only in the course of the fourteenth century – a landed nobility with duties and rights vis-à-vis the generalised power. This process was effected in a context of regionally different forms of rule and with territorially different preconditions and results. One varying precondition, for example, was the fact that in many regions more or less all free men were described as *nobili* while in others this elevation was restricted to the more powerful of their number. The number of *nobili* and the average size of their holdings varied accordingly. There were several regions where many of the *nobili* hailed from lineages of the old Carolingian service nobility, while in others – especially the border regions – 'strong men' in the tenth century had a particularly favourable opportunity to make themselves into castellans possessing seigneurial power. Finally, there were tremendous differences in the distribution and the articulation of feudal structures. At certain times there was scarcely anything in common between Normandy, for example, where the situation was very similar to that in England, and the structures of rule in the south. In the north of France a combination of feudal relationship and homage (an oath of allegiance to the feudal lord) generally developed into the dominant form of regular connection between magnates and those warriors who lived only temporarily in their household. In the south, on the other hand, there were for a long time oaths of allegiance without feudal relations – in some parts for the peasants as well. In so far as the personal tie was reinforced there by an 'obliging gift', this often related to material participation in fiscal competences. Whilst princes were inclined to interpret vassalage as a relationship that demanded obedience on the part of the vassals, many of the latter saw it only as an obligation to keep the peace. Which particular definition prevailed depended on the *de facto* possession of power. This situation was reproduced in the relationship between the territorial princes and the king. The southern lords dispensed with the journey that would have been necessary to pay homage to the king, whilst the northern territorial princes generally did travel to swear allegiance. Just like their own vassals, however, they were reluctant to interpret homage as the basis of a relationship of

obedience. This kind of – feudal – interpretation only became a reality when kings had the military and fiscal strength to return territorial princes their former realm as a fief, under condition of obedience.

Though initially in 'France', therefore, many different noble estates came into being, from the twelfth century on a *notion* of nobility came to prevail that transcended local differences. The ideal of knighthood generalised the behavioural norms and the claims to privilege of a noble stratum. The knightly ideal was certainly not invented by the clergy, but its diffusion stood in close connection with the generalised practice of church rule: the 'peace of God' movement and Crusade propaganda. The ideal of knighthood integrated the profession of arms into the Christian view of the world. It combined behavioural norms for warfare that were sanctioned by the church with forms of non-military discipline that served above all the development of *courtoisie*. Independently of whether these norms marked actual practice, knighthood came into its own as an estate in the course of the twelfth century. It served its members as the foundation of privileges, such as freedom from taxation and a particular regard for their privileged position in the event of penal proceedings. This social revaluation of knighthood altered little in the relationship of lords to peasants that was already established in practice. The claim to knighthood, however, organised an interest of the warriors in the social subjugation of *all* laymen who were not knights.

The comparatively great importance that the ideal of knighthood acquired in 'France' for the emergence of a generalised conception of lordship corresponds to the comparatively more significant sacral interpretation of royal power. Whereas in England, irrespective of the royal myth that was also present there, a relatively modest relationship of the royal vassals to their lord emerged in a context where the exercise of royal power was important for the reproduction of the existence of the lords (a situation expressed in rebellions, when the practice of royal power ran counter to the generalised interests of the vassals), in medieval 'France' there was no rebellion of the nobility, despite the feuds between individual lords and the king. The kings of 'France' were not strong enough to provoke such rebellions. They were not even strong enough for the nobility to develop into an estate in respect to the generalised power in the kingdom. It is true that from 1285 ennoblement was documented by royal letters patent, but right into the fourteenth century the nobility of 'France' still existed principally in the form of different territorial

noble estates or aristocracies. And though the princes of certain territories already at that time became barons of the king, meaning that royal judicial power extended not only to those princes but also to all their vassals, in the kingdom as a whole the generalisation of nobility was chiefly in respect to the myth of royal power and not in respect to feudal or seigneurial practice.

Similarly to the English case, rise into the nobility and obtaining the status of lord depended also in medieval 'France' on the reproduction of a definite style of life, the material preconditions for this being derived from socially privileged sources: warfare, possession of seigneurial power, marriage, and to some degree also princely service (generally non-military). But whilst in England, already in the thirteenth century, availability for the king's service was established as the criterion for membership of the *gentillesse*, so that nobility, though on the one hand a propertied estate, was also defined in relation to the exercise of royal rule, in 'France' at this time there was no definition of nobility that was founded on the generalised rule of the king, and consequently no general noble estate.

#### *Autonomy of the towns and their strivings for power*

England had no towns comparable with those of southern France. There an urban organisation – in the form of church rule – and an 'urban' culture had survived the demise of antiquity. In the Middle Ages, a secular aristocracy shared rule in southern France with the princes of the church, in a more-or-less competitive position. But the situation in northern France was also quite different from that in England. Though town-dwellers in England could certainly acquire privileges, such as the right to collect the taxes to be delivered to the king, the room for manoeuvre for power strategies by the rich townsmen remained comparatively restricted by the English king's monopoly of land and ruling power. In France, on the other hand, the kings granted towns very far-reaching privileges. By granting both towns and monasteries immunity from their former seigneurs and, in this way, subjecting them directly to the crown, they created fiscal, judicial and military strongholds that they could use for strategies directed against the territorial rule of the nobles.

Both in England and France there developed the type of town that Max Weber showed to be a structural feature of European feudalism: the town as legal person and the appropriation of corporate urban privileges by the leading social strata of townsmen. But, since the preconditions for the generalisation

of royal rule differed fundamentally between the two kingdoms, in the long run there also resulted different structural preconditions for estate conflict between urban burghers and nobility. One of the structural preconditions for the long survival of the *ancien régime* in England was the limited autonomy of urban burgher power vis-à-vis the local exercise of rule based on the land monopoly of the nobles. Urban burgher power was unable to expand, and in many respects even began to decline, as royal rule in England was generalised not in competition with territorial noble rule, but – conversely – local noble rule was established in connection with an already generalised royal rule.

## 2. Conditions for the emergence of the *ancien régime*

In both kingdoms, all forms of personal rule began to be objectified and monarchical rule was generalised. The general preconditions for these developments arose from the expansion of the material basis of rule – the extension of cultivated land and the expansion of trade – as well as from the competitive structures of armed appropriation. Yet the widespread assumption in scholarly literature that the expansion and objectification of generalised rule, commonly described as the development of the ‘state’, was the result of increased monetarisation as well as a defence that had become necessary against peasant uprisings, can not be maintained. Although a certain degree of monetarisation was required for the fiscalising of personal rule, the expansion of monetarisation remained for many centuries a *result* of the exercise of rule. Peasants frequently found themselves compelled, in order to pay the taxes and other dues demanded of them, to offer for sale the proceeds of their production, even if these were necessary provisions for their family. Cause and effect are also commonly confused in the question of the suppression of peasant uprisings. Though such uprisings regularly produced common actions on the part of the lords, these did not constitute any permanent generalisation of the possession of power. If this occurred for some other reasons, then the means of generalised power were employed in order to secure established rule. This in no way demonstrates any causal connection.

The basis for the expansion of generalised power was the organisation of armed appropriation and the securing of peace *among the lords*. The wars waged by the kings presupposed the *de facto* agreement or at least willing toleration of decisive sections of the nobility. In so far as nobles made use of their

autonomous or delegated rulership competences and their political influence on a local and regional scale, they were able to raise the requisite financial means. Armed competition for rule between the lords was only made possible by their competence to call up armed men and procure horses, lodging and equipment. These preconditions for warfare formed at the same time the most important preconditions for the royal exercise of rule. Though kings were also supposed to establish justice and protect churches, so long as the conditions of their rule had not yet separated out from their immediate foundation in disposal over armed force, the actual effect of their legal practice remained tied to the direct connection of their power politics. The structural context of armed competition for rule applies to the entire 'world' of the European Middle Ages, but especially to England and 'France', in so far as the two royal houses waged a very long war against each other.

In England, the changes in both landlord appropriation and armed appropriation worked themselves out in connection with an already achieved generalisation of monarchical power. When the tenancies of lords became hereditary, the crown lost opportunities for the exercise of power, but this did not endanger the existence of the generalised power that was already established. Leaving aside particular cases and temporary divisions, noble rule did not develop in England in competition with monarchical rule. The practice of monarchical rule did however effect a certain generalisation of ruling interests. It was in this way that regular conditions arose both for the deployment of royal feudal power, as well as for the practice of generalised judicial, fiscal and military power. By calling parliaments – at least when they needed to raise taxes – kings took account of the conditions for the exercise of their rule.

Two of the structural changes that mark the transition from feudalism to the *ancien régime* in England should be emphasised in respect to the question of the structural preconditions for the different political forms in which bourgeois state power developed. First, personal obligations founded on the feudal rule of the king were from the thirteenth century on increasingly – though not completely – transformed into fiscal tenancy charges. From this time on, if the kings wanted to make use of the armed force of their nobles, they made contracts with them. In the organisation of armed force, therefore, these objectified structures were combined with the traditions of vassalage and the royal myth. The second important feature for the emergence of the English *ancien régime* in this respect was the constitution of two distinct noble estates. The

constitution of the English high nobility – a process of the fourteenth century – was the result of a successful struggle by powerful barons for particular privileges. They acquired a hereditary right to be called to parliaments, and successfully demanded that Parliament should henceforth not simply advise the king, but also function as a judicial instance. From the fourteenth century on, membership of the peerage became formalised, new titles arising along with an internal hierarchy within the high nobility. The privileges of the peerage and the manner of their inheritance were thereby institutionalised. Royal favour could expand the power and possessions of individual nobles, and there were, of course, *de facto* distinctions in their disposal over means of force, yet the practice of generalised power united and limited the legally fixed privileges of English peers.

The lower nobility in England was on the one hand the result of a decline. With the formalising of the privileges of powerful barons, the remaining members of the knightly estates were in a sense institutionally reduced to a lower social rank. At the same time, however, the rise of the lower nobility in England was also the result of a social advance. Whilst the connection of the knightly orders to military practice in England already began to dissolve in the thirteenth century, this social group was consolidated by the crown's making use of the land-holding nobles for its local exercise of rule. In the Commons, which arose as an institution for the formulation of petitions after the peers had appropriated judicial competences for their assembly in Parliament, local demands on the practice of royal rule were formulated and to some degree also generalised. It was significant for the development of the *ancien régime* in England that the lower nobility controlled the local exercise of royal office power and admission to 'gentility', also that local power of office did not offer any hold on generalised appropriation.

The fact that membership of the nobility did not determine the acquisition of fiscal privileges, but rather admission to the (unpaid) service of the king, contributed to the fact that within the ruling estates, the interest in the limitation of royal fiscal power was repeatedly generalised. Thus, though the English kings were unusually strong, comparatively more so than the French, this was only when they acted in far-reaching agreement with the peerage and the gentry.

Within the gentry, lordly status was largely reproduced via economic exploitation of the land monopoly. In the situation of intensified competition

for labour of the fourteenth and fifteenth centuries, many who had only little judicial power or armed force at their disposal were forced to agree to the reduction or abolition of their manorial power competences. In this way, forms of appropriation in a context of personal rule were transformed into appropriation on the basis of disposal over means of production.

As against the situation in England, the emergence of the *ancien régime* in 'France' did not amount to the refoundation of an already generalised monarchical power in the generalised interest of the nobility, but essentially only to the expansion of monarchical rule. The structural preconditions of this process resulted from the economic development of the crown lands, from the support that the crown could obtain from towns and monasteries as a peace-keeping and privilege-granting instance, as well as from the difficulties experienced in reproducing local and territorial rule. This last arose from crises in seigneurial appropriation, increasing costs for the reproduction of lordly existence, and structural changes in armed force. The kings integrated their possession of territorial rule by waging war against the holders of territorial and local rule, or offering them pensions – quite commonly both one and the other. Special ties were secured by marriage contracts. This generalisation of royal power was regulated by concepts and symbols of feudal lordship, which literally means that royal feudal lordship was only realised in 'France' when the crown was in a position to purchase important vassals. The dominant form of expansion of monarchical power was the material connection of holders of territorial power to the crown, a circumstance that runs diametrically counter to the view of feudal sovereignty that is still often reproduced in history books today: it was on the basis of payments that princes were ready to transfer their previously autonomous possession of ruling power to the king, receiving it back from him as a fief. In the regions that thus fell to its sway, the crown established its judicial power as an instance of appeal.

Two characteristics of this process of generalisation are particularly significant in the present comparative study. First of all, the integration of existing territorial and local rule did not effect any unification: different legal forms and contents remained in being, just as did different forms of seigneurial rule and noble privilege. For all that, the generalisation of monarchical power did constitute a 'French' nobility, i.e. a privileged estate of the kingdom as a whole. With the development of the royal power of taxation, the privileged position of the nobility in this respect became its common characteristic. Secondly,



the king's renunciation of taxing the nobles created the material basis for the existence of generalised monarchical power. Since the exercise of this power in 'France' scarcely developed any unitary forms, it also hardly provoked any unification of interests. Estate assemblies failed to emerge for a long time, not because of the crown's successful resistance to them, but rather as a function of the disinterest of the provinces and towns. For the territorially and locally dominant families entertained justified hopes of acquiring privileges by way of clever diplomacy. As against the English case, therefore, there was no regularisation of royal fiscal power in 'France', but a system of negotiated taxation rather developed. Royal taxation consisted of a system of bilateral diplomatic agreements.

In each of the kingdoms under investigation here, noble rule was both limited and sanctioned by royal rule, in other words it existed from then on in the form of privilege. But the management of privileges, which in both kingdoms comprised the basis of generalised monarchical power under the *ancien régime*, was subject right from the start, and throughout the whole existence of the *ancien régime*, to structurally different conditions. Whilst in 'France' the crown was confronted by many different privileges, basically in a competitive situation with one another, the English crown had to act in a context of partially generalised interests of the holders of privilege. If they were successful in this, English kings, despite having no 'apparatus' at their disposal with members who were materially dependent on them, were able to govern the land, whereas the French crown, despite having appropriated *de facto* the prerogative of taxation and with it the possibility of autonomous organisation of armed force, remained in a situation of regulated diplomatic relations vis-à-vis the particular territorial and local ruling powers.

### **3. Contradictory development of the *ancien régime***

Structural crises under the *ancien régime* were crises in the system of rule. They had a material basis in structural changes in the conditions of appropriation, but a crisis of landlordship did not in all circumstances find expression in a crisis of the system of rule. Crises that put in question the personal structure of rule resulted far more commonly from struggles for position within the ruling estates. Class-type contradictions led to crises of reproduction, and provoked strategies of crisis management and structural changes which in turn

endangered – or else improved – the position of the appropriators. To this extent, conflicts between lords and peasants, or between masters and journeymen, could be the cause of such crises of rule. If social conflicts of this kind led to a regularisation or a general formalisation of ruling practice, they also influenced a change in the forms of rule. The central dynamic of change in the generalised structures of rule under the *ancien régime*, however, resulted from competition among the possessors of personal power competences, and from the influential demand of rising social forces who wanted either to participate in such possession, or else to curtail it.

The structural preconditions for conflict over the distribution and scope of personal rule were different in the two kingdoms. Their specific character depended on whether material threats to the lords' existence were transformed into a crisis of the system of rule, or could be negotiated without any fundamental shock. In this respect, the following structural features were decisive: the extent and forms of centralised appropriation, the extent and material basis of the political strength of the high nobility, along with the structural relationship between this strength and the generalised interests of the lower nobility, and the conditions of individual advance into the noble estate along with the correspondence between estate hierarchy and distribution of wealth.

The emphasis on structural differences between the forms of estate rule in England and France stands in contradiction with the tendency in English historiography, reinforced in recent years, to overestimate the common character of English nobility and its continental counterparts. It is in this connection that historians maintain the noble character of the gentry, and revise the long-established notion that access to the English nobility was more open than was the case in France. Reference is also made to the fact that the privileges of the high nobility in England were not so extensive and provocative as those of the continental noble estates, even if they should by no means be seen as incidental. None of these contentions is contested here. But they simply justify the subsuming of both kingdoms under the concept of *ancien régime*. And it is only possible to proceed in this way if the gentry are *not* seen – in a temporarily influential view – as bearers of a 'bourgeois revolution' directed against the king and 'feudalism' (aristocracy), and the revolutions of the seventeenth century are *not* interpreted as the end of the *ancien régime* in England. Rejection of this interpretation requires an emphasis on structural commonalities;

the question of the structural causes for the very different development of the *ancien régime* in France and England, however, demands an analysis of their differences.

*Extent and structure of centralised appropriation*

Forceful efforts were made in both kingdoms to increase the extent of centralised appropriation. The most important occasions for this tendency arose from efforts to finance military projects and dynastic power politics. What is particularly significant in the present connection is the fiscally provoked extension of the permanence of offices. This could lead to financial burdens on the crown, if the payment of salaries was envisaged. In so far as the crown sold offices, the expansion of 'state' power served to increase the 'state's' finances.

Efforts to extend the possession of office, and hence – in one form or another – private appropriation by way of centralised power, proceeded for the most part from the government. By offering profitable office power, the crown was able to tie to itself those nobles who, as a result of difficulties of appropriation in the seigneurial sphere, or rising costs in the expenses pertaining to their lordly status, sought new sources of income. To the extent that lucrative offices whose actual exercise was either perfunctory or could be performed by substitutes achieved the material integration of the high nobility into monarchical rule, they offered an opportunity in the short term to counter threats to the established system of rule.

In so far as possession of a particular office endowed or confirmed a social rank, the crown at the same time established and defended its competence to authoritatively define the social hierarchy. This in turn had the consequence that hopes of social advance could be satisfied, and a further cause of crisis in the system of rule 'resolved', by status-enhancing private participation in centralised power. Yet strategies of this kind came up against structural limits. Extraction by way of centralised power competence could certainly be increased by main force, but in the long term such strategies competed with demands for the material or even biological reproduction of the labouring population, and also with other private appropriation. At the same time, the expansion of offices led to a competition between office-holders for sources of income, expressed in violent conflicts over jurisdiction, while the profitability

of offices fell and with it at least their material, if not necessarily their social, attractiveness.

In France, the political and fiscal opportunities for granting office power were used right to the limit. This was possible because the costs that these offices involved for the government were financed by taxes that fell chiefly on the peasants, besides raising the government debt and to this extent also the prospects for 'state' creditors to draw more interest. As against the situation in England, there was no social group in France that was in a position to impose a restriction on offices. The crown consequently used the fiscal possibilities of selling office power and the 'taxation' from office property. Although property in office power – which, with few exceptions, became inheritable in the seventeenth century – could, in certain circumstances, prove a less profitable investment in strictly material terms, the demand persisted, since office property promised direct or future access to the *noblesse de robe*. Though the unity of the noble estate had been maintained in France until the end of the sixteenth century, and ennoblement along with gradual *de facto* advance had meant the confirmation by the ruling power of a *single* nobility, the increase in office nobility effected a regular separation between the *noblesse d'épée* and the *noblesse de robe*. Since, at the same time, the possibility of advance by gradual integration into already established strata of the nobility was abolished – or at least made immensely more difficult –, investment in office property developed into a structural feature of strategies for family advance.

By the creation of ever new offices, the crown did not so much improve the effectiveness of its 'apparatus' as promote, on the contrary, a competition for competences and the tendency of office-holders to make use of the means of generalised power to secure their own profit. In this sense, the royal 'administration' stood in a certain contradiction to the expansion of material reproduction. In view of this structural importance of office property, particular development measures that were decreed and implemented by office-holders (most commonly, by the *intendants*) were hardly significant.

In England, too, there were regular sinecures. Yet the fact that the nobility was not fiscally privileged, and the generalisation of gentry interests in Parliament – along with the possibility of successful resistance to costly practices of government – meant that the crown, if it wanted to provide nobles with incomes, had in general to resort to involving them in the 'administration' of its feudal appropriation power. The administrators of the 'central' government

received regular salaries, along with the incumbents of court offices. Local government, on the other hand, was largely carried out by representatives of the local nobility and – after the Reformation – clergy of the Church of England, who did not receive payment from the crown.

In England, too, certain offices were bought. This practice was most striking in the army. Here, however, the trade in commissions was more or less private. The crown did not offer commissions for sale, but distributed these among the clientele groups of influential nobles for political ends. The granting of offices helped to reduce the costs of policy, but was not a means of direct fiscal procurement; expansion of office-holding was consequently not an urgently necessary government practice. There was, indeed, in England an expansion of offices. It was most numerous in the eighteenth century in the realm of local administration, as the growth of the Commissions of the Peace meant that the demand for confirmation of noble rank was met by appointment as Justice of the Peace. This expansion, however, neither made government more expensive, nor did it produce, as was so often the case in France under the *ancien régime*, conflict between established local authorities and newly appointed royal officials. Certainly, this was not the only way of access to nobility, but in England too, dominant practices of advance were oriented to obtaining possession of royal power of office. The structural conditions for such strategies, however, were quite different from those in France. In England, no practice of unproductive investment developed like that in France. The office power of Justices of the Peace could in no way be bought; those offices that could be purchased were comparatively cheaper than in France, and there were far fewer of them. Finally, nothing like as much profit could be made from the crown's debts as was possible in France, owing to the limited nature of the crown's 'apparatus' and to parliamentary participation in financial policy. Though nomination to the Commissions of the Peace was the prerogative of the crown, in actual fact the members of these commissions were chosen from locally dominant families, so that the institutionally confirmed hierarchy generally corresponded to locally dominant ideas of admission to the gentry in terms of wealth and behaviour. Election to the Commons was decisive for possible further advance within the nobility, and also lay in the decision of the locally established nobility. This pattern of recruitment meant that Justices of the Peace tended to be representative of their estate. This did not mean that they were unable to shape the conduct of their office according

to personal conceptions, but they were repeatedly forced to pay attention to the views of their 'neighbours', i.e. local fellow members of their estate. In combination with regular Parliaments, this structure of local government led to the government of the country corresponding far more clearly with generalised lordly interests – at least in comparison – than in a kingdom where the 'apparatus' of government institutionalised competing private interests of appropriation, and the selection of office-holders was not linked to locally generalised interests. This meant, for one thing, that in England the crown had little prospect of implementing for any length of time a policy that contradicted the locally generalised interests of the lords, and, for another, that changes in dominant reproduction strategies could not be politically blocked. The clearest example of the first point is supplied by the dynastic and religious policy of Charles I, and the clearest example of the second by the unsuccessful attempts of governments to prevent enclosures and other practices that destroyed the reproduction possibilities of small peasants. The comparatively weaker state 'apparatus' in England, along with a system of taxation that was not, like the French, tied to the maintenance of independent small peasants, made the development of capitalist production easier in England. The revolutionary abolition of the royal right to grant privileges also worked in the same sense. In the process of revolutionising the generalised monarchical power, the feudal claims of the king on his 'tenants' were abolished, and along with them the offices for the 'administration' of fiefs. The surviving sinecures were not a major source of grievance. The sums that families of the high nobility in particular acquired from sinecures, according to later critical publications, do not alter the fact that the centralised power of appropriation had been to a great extent de-privatised since the turn of the eighteenth century. The government 'apparatus' did not stand in the way of structural changes in appropriation.

This however was precisely the situation in France. Whilst 'state' regulation of economic life improved the income opportunities of office-holders, it could not bring about here the development of manufacturing or an expansion in the volume of trade. The repressive tax system of the seventeenth century accelerated monetarisation and commodity production, since peasants were forced to sell grain even if this left them without enough to eat or to sow. Structurally, however, this change in economic structure led in France to a crisis-prone stabilising of already existing investment structures. Since

the tax system made investment in office power and state loans more lucrative, investment in other fields long remained relatively less attractive. In the eighteenth century, the prospects of profit in the colonial trade and in commercialised agriculture led to shifts in the structure of investment, which also had an influence on manufacturing production. But the revolutionising of appropriation was blocked by the structural weight of appropriation through office, through privilege (especially seigneurial power) and the state debt. It is not by mere chance, therefore, that in all societies of the *ancien-régime* type, 'the power of the state, the concentrated and organised force of society' is deployed 'to hasten, as in a hothouse, the process of transformation [...] into the capitalist mode, and to shorten the transition,' as Marx put it in his discussion of primitive accumulation in Volume 1 of *Capital*,<sup>1</sup> a process that Marxist historiography has subsequently referred to as 'absolutism'. The precondition for this 'hastening' was the abolition or at least limitation of centralised appropriation for the purpose of private enrichment. The most general form of the bourgeois state, the separation of politics from economics, is not the structural consequence of the domination of capitalist relations, but, rather, the precondition for it.

*Structural change in the rule of the high nobility*

England under the *ancien régime* had an unambiguous social hierarchy. This stretched from 'plain gentlemen', through the 'county gentry' whose members frequently counted themselves among the 'armigerous gentry', up to the 'peerage'. Within the peerage again, the rank order of titles largely followed achieved social rank.

Through to the very last phase of the English *ancien régime*, the age of the great reforms of the nineteenth century, there were repeated differences of interest between the high nobility and the gentry, and between the court – i.e. a section of the peerage – and the country – members of the higher gentry whose orientation was predominantly local. In the course of time, however, the high nobility were deprived of their special means of rule by the successful opposition of the gentry and the urban bourgeoisie, starting with their independent armed force and their *de facto* control of the royal judicial instances –

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<sup>1</sup> Marx 1976, p. 915.

practices that were described as affinity, livery and maintenance. From the sixteenth century on, only membership of the House of Lords survived as a special possession of rule. Moreover, the high nobility's opportunities of power – which remained considerable even after the revolutions of the seventeenth century – had to be realised in practice: by patronage, i.e. the conveyance or brokerage of offices, by the offer of money, and in general by modes of behaviour that succeeded in achieving and maintaining local precedence and influence at court.

The English high nobility arose as a service nobility of the king. It retained this structure through the entire duration of the *ancien régime*. There were no formalised claims to office, but service to the king or queen was seen not just as ennobling, but as actually appropriate to noble status. If the peerage, in the phase of its historical constitution, had been the supporting group of the ideal of (military) honour, families of the high nobility (though by no means all of them) participated also in the 'civil' ruling practice of the crown, and equally in the competition for influence and power. They remained, in other words, the politically, materially and culturally dominant stratum of society.

If, however, peers sought not just to live off their wealth and the traditions of their family, but to actually demonstrate their lordly claim before a wider public, they were forced to pay heed to the views and interests of the gentry. Political power in England had, in the last instance, to be demonstrated by influence on parliamentary decisions. This was already the case before 1649, and still more clearly so after 1688–9. Though many ('closed') constituencies remained *de facto* in the possession of particular noble families, those nobles out for political influence had to pursue a systematic patronage policy and expend considerable financial resources in order to achieve and maintain positions of local power, and they could not completely override the interests of their electors. As governments started to tie to themselves those peers who commanded several constituencies, by endowing them with (higher) titles, the hierarchy of noble ranks was brought still further in line with that of possessions and political power. The greater the latter was, the more privileged was access to material participation in centralised appropriation, either in the form of offices for one's own family, or else in successful brokerage for one's clientele.

This is not to suggest that the English peerage possessed special abilities of adapting to the changing conditions of competition for political power. It



is to maintain, on the one hand, that strict primogeniture, along with firmly anchored marriage patterns, managed largely to secure the wealth of families of the high nobility, while, on the other hand, the English high nobility – apart from its hereditary membership of Parliament – had no specific legally guaranteed ruling competences at its disposal. It was forced, therefore, to realise its opportunities of rule in strategies that took cognisance of changed conditions – such as, for example, the increase in the power of Justices of the Peace in the sixteenth and seventeenth centuries. This course was not followed by all members of the high nobility – which comprised, at most, some sixty or so families – nor by all members of the county gentry, but it was followed by a sufficient number that the unity of estate hierarchy and actual political influence was largely maintained through to the nineteenth century.

In France, the date of a family's nobility was always the key criterion of social rank. Certainly, this criterion could not be asserted against the immediate relatives of the royal family or the dignity of dukes, but below the *ducs et pairs*, anyone whose family could prove that they had been noble since the thirteenth century, and especially since the eleventh, viewed themselves as more eminent than a minister or even the royal secretaries, immensely rich though these might be. This hierarchy of *précédence*, and the threats it faced, was a key structural feature of the French nobility. Though the reproduction of lordly status, especially for the territorially powerful nobility, had been largely maintained for centuries by material participation in royal taxation, and though many families of the *noblesse d'épée* were forced by material circumstances to have successive generations serve the king as officers, this nobility kept independence from the king's service as a dominant content of their self-conception, and were therefore not ready to acknowledge that such service, even in a position of great responsibility, could grant the same nobility as previously powerful families had won by their male members' serving the king with their swords. Among families of the *noblesse d'épée*, there was a widespread tendency to class their own nobility as high and that of the *robe* as low. This conception, however, broke down on the differences that opened up between the hierarchy of *précédence*, that of wealth and that of political power. As far as both wealth and power were concerned, the topmost strata of the *noblesse de robe* had already overtaken the lower reaches of the *noblesse d'épée* in the course of the seventeenth century. The high nobility thus comprised, at least by the eighteenth century, the top strata of the *noblesse d'épée* and the top strata of the *noblesse de robe*. Though contemporaries continued

to ascribe particular families to one or other noble grouping, the former 'professional' distinctions increasingly disappeared. There were families of the *noblesse d'épée* whose members performed high judicial and administrative offices, and offspring of the *robe* who became officers in the army. At the same time, social and marriage connections were made across this divide, initially in the provinces. Yet the high nobility of France, differently from the English peerage, was not a more or less unitary reservoir – organised into clientele groups – from which the kings could recruit their servants. The previously considerable possession of relatively autonomous territorial rule, and participation of the *ducs et pairs* in the Fronde of the seventeenth century, led the royal government to an attitude of political reserve vis-à-vis this leading group of nobles. After the Fronde, the *pairs* lost their claim to membership of the royal council, while the office of *gouverneur*, which remained reserved to members of the high nobility, gave only limited competence. Implemented in the second half of the seventeenth century, the political disempowerment of the high nobility remained from then on a structural feature of the French *ancien régime*. The failure of noble government during the minority of Louis XV put the final seal on this state of affairs. Particular members of this group continued to have great political influence; but this was no longer based on their rank, but rather on the confidence that the king placed in them. The political disempowerment of the *ducs et pairs* brought their official mode of existence dangerously close to that of the group within the families accepted at court who were described as courtiers. Courtiers enriched themselves from offices that had no significance outside of court ceremonial, and reduced politics to cabals. They sought neither the traditional legitimisation of noble rule, the ideal of honour, nor the newly emerging eighteenth-century ideal of virtue and service. Critical writings of the time describe them as puffed-up drones, the living embodiment of every evil. Even if the court nobility comprised only a section of the high nobility, and courtiers made up an even smaller group of those families admitted to court, the key place that court ceremonial assumed in the governing practice of French kings from Louis XIV onwards made it highly significant that those nobles who stood at the apex of their hierarchy by virtue of their admission to court, lived in a manner that contradicted the dominant ideas of value.

Below the court nobility was a stratum of rule that Bailey Stone has described as the 'robinocracy'. These, in a certain sense, administered the royal power and determined new accessions to the upper strata of the *noblesse de robe*. The

same can pretty well be said of the effect of English patronage practices. Yet, there were considerable differences between the two. On the one hand, offices in France were the hereditary property of individuals, while in England, though the important office power of Justice of the Peace was often 'inherited' in certain families for a long while, renewal and transmission of office always remained dependent both on the agreement of locally dominant families, and on that of the crown. The realisation of political power, since this was linked with parliamentary majorities, required that newly arising families be taken into account in patronage practices according to their local esteem. In actual fact, the social limitations of access to office power in England were very likely just as great as in France. But the criterion of access of a family's length of nobility – initially conventional and later actually fixed in law – provoked conflicts in France that had no counterpart in England. In England, families that could no longer fulfil the material preconditions for competition with newly ascendant families inevitably fell out of this competition sooner or later, whilst in France they successfully insisted on their social precedence being protected. On top of this, though in England, availability for service to the king was certainly a key criterion for membership of the gentry, this did not necessarily have to be realised in actual office-holding. In both kingdoms, nobles in the seventeenth and eighteenth centuries stood at the peak of the hierarchy of wealth and at the peak of the king's 'officials', but in England the hierarchy of power and possessions largely coincided with the hierarchy of noble rank, whilst in France this was not the case either at the peak of the *noblesse d'épée* nor in its lower ranks.

#### *Estate hierarchy and distribution of wealth*

In France, it could happen that a very old and thus very eminent family of the *noblesse d'épée* continued to enjoy seigneurial judicial competence even though it could no longer compete in terms of wealth with certain peasant families, to whom it might even have leased seigneurial rights. Father and sons might have regularly buckled on their swords, and mothers and daughters rightfully expected the respectful greeting of Sunday churchgoers, but it did not remain unnoticed that the number of their servants was reduced, that they no longer sent out widespread invitations, and that their daughters had to accept being married without a dowry. By the end of the *ancien régime*, some 11,000 noble families are supposed to have lived in material conditions that did not

allow for any kind of luxury, scarcely any servants, no dinner parties and only rarely even new frocks for the ladies. A further 5,000 families were actually impoverished, and some nobles had even sunk into destitution.<sup>2</sup> Leaving aside this category, almost all noble families disposed of seigneurial rights that could be used for appropriation, i.e. they were still in a dominant class position over many peasant families, labourers and even townsmen. This did not necessarily make them part of the materially dominant strata. For, in the course of the *ancien régime*, the unity of estate membership and economic dominance had increasingly dissolved. The richest in the land continued to be noble, and the poorest in the land were noble only in exceptional cases. But, in the middle strata of wealth and access to class-type power of appropriation, social rank did not necessarily correspond to material position. Right to the end of the *ancien régime*, wealth in France brought access to nobility by purchase of an office or letters patent (no one was ennobled who did not possess the means to live a noble life; even those ennoblements that rewarded services cost 6,000 *livres* for the registration of letters patent, not to mention the costs required to bring a person's services to the king's attention), but – apart from the purchase of the office of a royal secretary – ennoblement only granted 'nobility in waiting'. Whilst service was increasingly respected in the second half of the eighteenth century, this did not go so far as to displace the criteria of length of nobility in determining social rank.

It was indeed the case, in France, that the crown's control of defining the social hierarchy was more extensive than in England, yet its reach was not so great that it could distribute social ranks according to political power within the ruling estate. To this extent, the hierarchy of social ranks within the nobility remained contested, despite all the connections between families of the 'sword' and the 'robe'. Still more relevant is the fact that the guarantee (in effect almost unconditional) of permanence of nobility once acquired caused the estate hierarchy sanctioned by the ruling power to depart in certain areas from the hierarchy of material position. This, together with the fact that the noble hierarchy was represented in court ceremonial in a manner that scorned the emerging ideal of virtue, led to a situation in which noble ranks lost their unambiguous anchorage in socially prevailing values – though they certainly remained attractive.

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<sup>2</sup> Chaussinand-Nogaret 1976, pp. 77 ff.

There was no comparable development in England, since rise into the nobility was first of all socially sanctioned. Similarly to the French case, possession of certain office competences seen as ennobling was decisive. The decisive hurdle to be overcome on the ascendant path, the qualification for Justice of the Peace, while it presupposed a fairly large landholding – at least if it was to provide proof of nobility – also presupposed recognition of membership by the local nobility. This could sometimes be achieved within a single generation, but often it was a gradual process, taking two or three generations, to achieve social integration into the upper strata of ‘landed society’. Wealth made possible investment in land, and was also the prerequisite to finance an appropriate lifestyle. But only if a family was socially accepted did it come to form part of the gentry, let alone of the ‘county’ (i.e. a gentry family with influence at the county level). The outward feature of such membership, a family coat of arms, could indeed be bought. But, if this was done too soon, it demonstrated only the intent to seek a future rise into the noble estate. This intent had to be realised by participation in estate ruling practice. Because the estate was self-recruiting in this way, and only needed confirmation from the crown, the reproduction of estate rule in the course of time came increasingly to be realised in cultural hegemony: the ideal of a noble life. In their efforts to acquire a landed property, or simply build a villa in the country, even those town-dwellers who consciously renounced the attempt to integrate into ‘landed society’ paid obeisance to the dominant cultural pattern. So long as rich landowners in the provinces could decide on membership of the nobility, the privileged income sources of landed property and office power and the demand of a certain style of behaviour remained the most important selection criteria. This excluded very many of the well-to-do in practice, without any formal barrier being imposed. What is decisive however for the political importance of estate boundaries is not a statistical comparison of successful and unsuccessful attempts at social advance, or even those merely undertaken, but rather the degree to which the prevailing criteria of selection were accepted by those who hoped to rise into the gentry. In England, moreover, there certainly was a *de facto* restriction on access to high office, even if this was not formalised, and so there was a regular process of ‘sideways’ movement into the nobility, i.e. social advance that within a single generation led from plain gentleman to peer. This enabled the service nobility that from the Middle Ages was a characteristic element of the English nobility, based on a

granting of titles to individuals that was broadly accepted, to be reconciled with those ideals of achievement that raised the hopes of many aspirants to advance. No matter how violent political criticism of the peers or even the entire system of estate privileges sometimes grew, after the brief interlude of the republic in the mid-seventeenth century there never again developed in England an influential social basis for the demand to abolish the nobility.

The lowest strata of the gentry, however, did in practice lose their noble status in the course of the eighteenth century. As increasing numbers of urban bourgeois became rich and respected enough to style themselves Gentleman or Esquire and expect their wives and daughters to be addressed as Lady, an entire social stratum pressed forward in a certain sense into the social status of 'plain gentleman' without the selection and cooptation procedures of formerly established nobles being applied. The effect of this advance was a general social devaluation of the position of 'plain gentlemen'. Because of this, the fact that there were ever more urban bourgeois who were both richer and more educated than many of the simple landed nobility could no longer lead to social conflict. The offspring of the former 'parish gentry' still had *de facto* advantages – for example, if their sons wanted to become army officers – but, taken as a whole, a coincidence between estate hierarchy and wealth hierarchy was once again established. Nobility now began only at the level of the 'county gentry', a social group that had no problem in competing in material terms with the urban 'gentlemen'. Nobility in England was the preserve of those who managed to maintain themselves even in conditions of changed practices of appropriation and new ideas of value.

#### **4. From *ancien régime* to bourgeois state power: reasons for the 'special roads'**

In societies of the *ancien-régime* structural type, the dominant forms of rule were personal. Ruling competences were the possession of individuals – through inheritance, purchase or transmission. The constitution of bourgeois state power presupposed the expropriation of these individuals – and, moreover, without compensation! Such a process of expropriation did indeed take place over the duration of the *ancien régime*: by the limitation or abolition of seigneurial competences, for example, or the regulated connection of royal ruling practice to specific forms of participation. Yet the implementation of

bourgeois forms of political organisation required not just attacks on venerable traditions and privileges, but also on property in the full sense of the term, and the interpretation of 'established interests' as property. Since it is notoriously far from easy for proprietors to recognise the justification of demands that aim at their expropriation, the 'French road' of structural revolution is, in a certain sense, the most obvious. For this reason, we shall focus here on the question of the structural preconditions for the 'English road'.

It is only to a limited extent that the specific course of the bourgeois revolution can be explained in terms of structural preconditions. Charles I did *not* have to oppose demands for constitutionalisation, and the financial crisis of the French monarchy could have been overcome yet again by the reform proposals that Loménie de Brienne proposed to the assembly of notables in 1787 – hard as it is to imagine their being accepted. Numerous examples can be given for the successful effects of decisions by individuals or small groups. The way in which such decisions come to be made can generally be understood if the socialisation conditions of the individuals in question are investigated, the specific forms and material preconditions of their individual practice of life, along with the actual decision situations. At the level of the structural analysis undertaken in this work, however, decisions of this kind have to be seen as historical accidents. This line of argument can be illustrated by a particularly striking example: the stabilisation of estate rule that was achieved in England in the latter part of the seventeenth century, and above all the first half of the eighteenth, was a structural precondition for the depersonalisation of royal ruling practice, for its far-reaching integration into generalised and dominant estate interests. But the fact that this process took place without any hint of revolution – even though it was much more extensive than the limitations on his power that Charles I had found unacceptable – rested on the readiness of William III to concede to Parliament large parts of the rule conveyed to him in 1689, in return for the financing of 'his' war on the Continent. This readiness can be perfectly well explained in terms of the rank order of interests of the new king, but in relation to the structural preconditions of the development of ruling power it is just as contingent as the political crisis that provoked a change of dynasty.

Taking into account considerations of this kind, and the exaggerations that are unavoidable in such comparisons, it is possible to establish different structural preconditions in France and England for the forms of practical criticism of the *ancien régime*, which I shall now go on to explain.

*Emancipation of a political public from the structures of personal rule*

The practice of personal rule was the form of motion of the societies of the *ancien régime*. In the process of the abolition of personal rule, the public developed into the subject of political opinion, and public opinion became the *form* of motion of society. But there were already political publics under the *ancien régime*. There was an audience to whom rule was presented, proclaimed, and sometimes even explained. There was even already a reasoning public. If Jürgen Habermas dates the formation of new structures of the public sphere in England to the late eighteenth century, and ascribes these to differences between the 'restrictive interests of commercial and finance capital on the one side, and the expansive interests of manufacturing and industrial capital on the other',<sup>3</sup> this causal analysis of the constitution of the structural type of 'early bourgeois public' needs to be questioned not just in respect to its characterisation of the economic interests of the late eighteenth century. Reasoning over different interests in England had already for a long time formed a regular aspect of the practice of personal rule. This 'showed the king his right' – in Reinhart Koselleck's expression.<sup>4</sup> It did not necessarily follow from the changing material conditions for the constitution of interests that the king would be placed in a false position, and the legitimisation of his – still existing – rule contested. The emancipation of the public from the context of personal rule does not stand in any causal connection with the implementing of capitalist forms of production and circulation.

The actual generalisation of royal rule, and the obligation arising from it for the nobility to participate in the royal exercise of rule, led in England to forms and practices of a public sphere arising that could make the structural change in public opinion *appear* as the expansion of something already existing; these institutional changes were marked by freedom of the press, reform of suffrage, and change in the party structures. This aspect, which in a certain sense belongs to institutional history, has persistently been politically functionalised in English historiography. Comparison makes it clear that this is not entirely without justification. For, in France, criticism of rule did indicate its structural crisis. Applied to France, Reinhart Koselleck's conclusion that criticism meant the beginning of the end of established rule is indeed

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<sup>3</sup> Habermas 1989, p. 58.

<sup>4</sup> Koselleck 1969, p. 99.



pertinent. But it is not so for England. The fact that the English *ancien régime* displayed a regular practice of negotiation with the criticism of rule is seen by Koselleck only as expressing a 'close liaison' between Freemasonry and Georgian politics.<sup>5</sup>

There are two respects in which the perspective of institutional history – as expressed in the work of Kurt Kluxen<sup>6</sup> – is unreliably restricted. On the one hand, by being generally limited to the 'national level' and leaving out of consideration the public of *local* rule that is at least equally important. (This practice is also followed by Habermas in his depiction of the 'model case of English development'.) On the other hand, by neglecting the emancipation of the public from the context of personal rule that was achieved in the public for religious discourse.

The thesis I will propose here, that the public as bearer of 'public opinion' in England made up a regular component of the practice of rule under the developed *ancien régime*, includes both these aspects. The Reformation has key significance in this context, as by this process the crown – in collaboration with Parliament – appropriated religious power along with the goods of the church. It prescribed a new practice of belief, and sanctioned moral norms. The realisation of royal church rule, however, called into being a public for questions of belief, and hence a debate not just about God but also about the world, which transcended the framework of existing rule. The generalisation of this discourse was facilitated by the new media of communication, and promoted by the search for kindred spirits. Even if this took different forms in the course of time, and limits on regional diffusion can easily be shown, the fact remains that in England from the sixteenth century there was a public for matters of religious belief in which not only the propertied classes took part. This was, indeed, regulated by ruling power. But regulation of this kind required for its part that the regulating instance was integrated into the structures of the religious public. It was within *this* public that the dynamic of revolutionary debate developed in the mid-seventeenth century. After 1660, religion remained the dominant content of generalised public debates, though now with an altered significance.

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<sup>5</sup> Koselleck 1969, p. 59.

<sup>6</sup> Kluxen 1983.

During the entire remaining duration of the *ancien régime* in England, political goals were predominantly formulated in connection with religious discourse. This was not a mere matter of form: the religious and moral characteristic of public discourse served as a basis for demands on the self-conception of the ruling estates. If moral campaigns could achieve success in English politics, though this *also* has material causes, the structural importance of a public marked by Protestantism cannot be overestimated.

In France, conflicts of religious belief were very rapidly colonised in the sixteenth century by noble clientelism. Though the Jansenist dispute within the Catholic church did subsequently produce a broader religious public, if still limited in comparison with the English case, the crown used papal condemnations of heresy to exclude discussion of reform from the public permitted by the ruling power. It was not completely successful in this, but both the theological content of Jansenism and its principal social basis in the educated estate limited its importance for the practice of local rule. In France, convinced Christians were constrained far more than in England to live out their piety in private. Otherwise than in England, however, religious discourse did not effect any structural change in the legitimisation of rule. When eventually, in the eighteenth century, a moral critique of established rule developed also in France, though this had an anticlerical tendency, its mode of argument was philosophical rather than religious. In the context of a ruling practice that sought to enforce 'good order' by the unity of religious practice, this critique – unlike the religiously based moral criticism in England – was not negotiable.

The second decisive precondition for the specific political forms in which the emancipation of the public sphere from the context of personal rule took place in England was the local generalisation of estate ruling practice. Already under the *ancien régime*, an estate public developed in the provinces into the *de facto* subject of public opinion. Though the Justices of the Peace acted formally as agents of the crown, they did so in actual fact in association with the local nobility. Their selection, and their conduct in office, was conditional on their views coinciding on relevant matters with those of the local political public. This was bourgeoisified by the *social expansion of the public* along with the redefinition of the forms of social exclusion. At the same time, political debates were, in a certain sense, nationalised and the results of these debates regularised. Since the decision competences of Justices of the Peace were curtailed

and supplanted in this way, the structural importance of the continuing estate practices of exclusion from the local political public was reduced. This centralisation of rule, however, also abolished the opportunities for the common people to indicate in terms of reason the limits to local rule. While the noble opposition had earlier on repeatedly demanded, against the expansion of the state's instruments of repression, that the public allowed to criticise specific practices of rule should be broadened, this mode of behaviour was curtailed with the embourgeoisement of the organisation of political power, if not abolished altogether. Police, the poor law, and public-order legislation were used to deny the reasoning of the common people, not only with new 'arguments' but also with new means. Appeal to 'traditional rights' was obsolete vis-à-vis the impersonal power of the bourgeois state. Whilst, under the *ancien régime*, it was possible to indicate to the possessors of personal rule the limits of their rule – even if at risk to life and limb –, the representation of political interests resulting from the centralisation of power practice demanded the support of 'public opinion'. This, however, presupposed financial and organisational resources that had long been unavailable to the common people. In this way, while the structural compulsion to rebellious expression was certainly altered with the emancipation of the public, it was by no means abolished. In the circumstances of the war against the enemies of the Revolution, France temporarily achieved at the end of the eighteenth century a far-reaching though by no means complete abolition of the material and institutional barriers on the political public. But public-order strategies were very rapidly and successfully developed, supported by the 'order-loving', i.e. better-off, strata. The exclusion of the common people from public expression, both *de facto* and *de jure*, showed the common concern of these strata in both France and England to monopolise for themselves the emancipation of the public from the context of personal rule.

*De facto power competences and forms of generalised personal rule*

In France, too, the competition between noble rule and royal power under the *ancien régime* was much less than is generally assumed. Yet, not only did the personal character of monarchical rule in France persist until the end of the *ancien régime*, the competences of the crown were actually extended in the course of the seventeenth century. In England, on the other hand, royal power

competences were curtailed by the revolutions of the seventeenth century, and, in the decades following the so-called 'Glorious Revolution', they were largely reduced to the representation of estate interests. From this time on, state policy was first and foremost the result of conflicts within the estates. These could also turn on the degree to which the interests of groups of the population who did not belong to the privileged estates should be taken into consideration, and the forms in which this should be done.

Though estate rule in England was institutionalised, it was comparatively only little formalised, and moreover only with respect to membership of the Upper House being attributed to particular individuals. To this extent, the expanded participation of new social forces in the practice of rule could in part take the place of a simple exchange of personnel – even if this was not achievable without resistance. A major part of the 'bourgeois revolution' was achieved in England by the changing social composition of the Commissions of the Peace. In order to assess this process correctly, it is useful to examine it more closely. For, just as in the seventeenth and eighteenth centuries, the 'quarter sessions' had both constituted and displayed the local context of estate ruling practice, across all existing differences, so the assemblies of magistrates in the nineteenth century expressed a public depiction of the development of class-type ruling interests that transcended estate boundaries – however conflictual the process by which this arose. In England, too, ruling competences were expropriated in the course of the bourgeois revolution. The estate dominance of Parliament, though not abolished by the electoral reforms of 1832 and 1867, was reduced from a guaranteed estate possession of rule to a structural favouring of particular social groups in the electoral procedure. It was within these institutionalised forms in the last third of the nineteenth century, when the economic and social position of landowners had greatly deteriorated, that a far-reaching exchange of personnel could be achieved without major institutional changes. The final abolition of the *ancien régime* in Parliament was first and foremost achieved in the form of social struggles, and less as an attack on remaining institutions of estate rule. A similar process took place in many towns. There, too, it was not the legal changes of 1834 that abolished the dominance of the nobility and the forms of their rule, but only long political struggles in the context of altered economic preconditions.

The process of exchange of personnel in the context of continuing estate dominance even under reformed conditions was supplemented by a process of centralisation. The old forms of local rule were not abolished. But ever more new authorities were created – with their incumbents recruited from different social provenance – and the local administration controlled more strongly by instances of the central government, and this restricted the decision competences of Justices of the Peace. The practice of the latter was increasingly confined to class-based general public-order purposes.

In comparison to the English case, the preconditions for the participation of rising social forces in generalised ruling practice were far less favourable in France. Though offices in administration and justice could be acquired with money and good connections, this did not mean that those members of the Third Estate who did not strive for office had improved prospects for advancing their interests. In France, the embourgeoisement of ruling power could not be advanced by an exchange of personnel. There was eventually as it happened a notable continuity. But the office-holders had to be expropriated before office power could be made an instrument of definite interests – whether estate or class ones. Before 1789, this happened only in a very limited sphere of the financial administration.

Even the demand for a far-reaching participation of the Third Estate in the planned estate assembly – quite comparable with the demand for electoral reform in favour of the well-to-do commoners in England – necessarily had a different political significance in France. Since there was no practice of regular representation of generalised estate interests, the demand of 1788 that the quotas for the estates in the proclaimed assembly should be altered was necessarily addressed directly to the crown. The campaign for ‘doubling’ thus criticised the established structure of monarchical ruling practice. In the English case, on the other hand, the campaign for electoral reform was addressed to Parliament, and its content was that the *chances* of electoral success should be improved for political groups that represented previously disadvantaged interests. Injurious consequences from electoral reform were neither hoped for nor feared. That the question was one of prognoses, of which some moreover were erroneous, indicates that in England it is the electoral public to whom the concrete results of institutional reforms should ultimately be attributed. The ‘new men’ had to struggle not only against outdated legislation, but equally against the electorate’s willingness to be won over by traditional

forms of power – beer and ham, promises of patronage and even outright bribes. In England, the question was the assertion of new interests, in France, the demand for institutions that would make political struggles over interests possible in the first place.

*Participation of the ruling estates in new forms of appropriation*

One of the most important preconditions for the historical possibility of reforming the *ancien régime* into bourgeois society resulted in England from the fact that the *politically* leading strata of the nobility were able to maintain an *economically* leading position even after giving up participation in centralised appropriation. Whilst the gentry had already been substantially affected by the relative decline in agricultural incomes, families of the high nobility were often able to compensate for the effects of the agricultural change by profiting from their ownership of the urban land needed for industrialisation. To a certain extent, they also participated in new trading companies and productive enterprises. On this basis, public campaigns could win support from at least a significant number of politically active aristocrats, though certainly not all of them. By deciding to abandon privileges, they managed to maintain their political dominance for a further half century – at least as long as the political importance of great individual wealth and the hegemony of estate culture remained unbroken. The gentry, on the other hand, largely lost their status by the economic rise of new circles and the professionalisation of state administration, eventually affecting even the army. Their self-consciousness was however able to survive in the persistence of cultural ideals of ‘landed life’, and estate-marked behavioural norms of ‘ladies’ and ‘gentlemen’.

In France, the structural preconditions for the possibility of reform were very much less favourable. Though recent research on the French Revolution has been keen to stress the readiness of the nobility to reform, the discourse adduced in this connection has to be countered in the present context by the fact that the material existence of precisely the leading strata of the nobility was in one way or another bound up with the persistence of a considerable indebtedness of the crown. The crown’s debts made possible the payment of interest, and they foiled all plans by the government to buy back office property on a large scale, so as to exert more effective control over officials. There were, indeed, those nobles, especially in the higher ranks of the *noblesse*

*d'épée*, who invested in industrial and commercial undertakings, but, for most families in the upper reaches of both branches of the nobility, participation in centralised appropriation and the exploitation of seigneurial appropriation competences were key elements in their material reproduction.

Among those families of the *noblesse d'épée* whose economic situation only made possible a less luxurious life in the country, many insisted all the more on the privileges available to them as their material situation and the prospects for their sons to achieve profitable offices declined. Otherwise than in England, however, it was precisely among the less well-off landed nobility that many demanded the abolition of noble privileges, or at least a reduction in these, as they saw them as benefiting above all the great magnates.

In both kingdoms, reforms of the 'state apparatus' demanded an attack on 'vested interests', interests that were long established and in part legally guaranteed. But in France, the political strength of those convinced that the social position of the ruling strata could only be maintained at the price of fundamental reforms was not sufficient to prevail against their estate compeers.

### *Residues*

In France as in England, the political rights of the working population long remained restricted in the nineteenth century; not only at the level of the state as a whole, but also in towns, there were *legally sanctioned* social limitations on the prospects of influencing political decisions. In the first half of the nineteenth century, individual noble families in both countries were able to defend their materially leading positions, and in both countries men with noble titles continued to be strongly represented in the stratum of leading political figures. But the question for noble families in France after 1789 was either to defend or maintain their social position in the context of a *bourgeois* society, while, in England, the question was one of the residues of estate ruling practice. If in France, noble families made use of wealth, connections, and the opportunities that a noble title offered, in England there was a survival of competences founded on feudal rule or on long-established practices of generalised estate rule – these being especially important in local government.

This difference is also noticeable in the persistence or ending of the cultural hegemony of the nobility. Though this cultural hegemony had already been exposed to serious criticism in France in the eighteenth century, and

the way of life of the nobility had been so fundamentally disavowed in the course of the Revolution that it could not be re-established by the notables of the nineteenth century, in England certain components of the cultural hegemony of the nobility have persisted through to today. In France, Negroni maintained that the Revolution made all Frenchmen and Frenchwomen into nobles.<sup>7</sup> From a population that Negroni estimates at that time at 34 million, 50 million would have now become noble. It is customary in France to take your trousers to a 'Pressing des Princes' to be dry-cleaned, eat in a 'Snack Royal' or have a drink in a 'Pub Ducal'. The houses of many French people are furnished in surprisingly 'aristocratic' style, and French children particularly favour comics with aristocratic themes. In this omnipresent aristocratic semantics, superior status is defined by 'distinction'. Those 'fine differences' whose strategic significance Pierre Bourdieu revealed time and again are certainly important in all societies. In France, however, they are more important than anywhere else for the social interactions of everyday life. To be superior in France is expressed by 'being different'.

In England, where the revolutionising of the *ancien régime* into bourgeois state power took place through a merging of the former ruling estate with the new social groups, the differences are not fine but immense, and the establishment of 'distinction' is a far less formal process, being determined by aristocratic behavioural norms that are still transmitted. This is possible because the modes of behaviour expected of a 'lady' or a 'gentleman' emerged from an adaptation of England's ruling estates to the bourgeois virtues of rational behaviour. The social forms in which the revolutionising of the English *ancien régime* into a bourgeois society came about also find expression in the fact that the French term *bourgeois* has to be used to describe individual members of the 'middle' class – an expression surviving from the time when the aristocracy was still indeed the 'upper' class.

The fact that estate rule is transmitted not only in the wealth of many heirs, but also in dominant forms of political culture and patterns of social selection, has caused social scientists to ascribe capitalist crises in the societies under consideration here to residues from former times. For France, Negroni maintains that capitalist values could be established only as a 'counter-culture', and for England, Martin J. Wiener explains the twentieth-century weaknesses

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<sup>7</sup> Negroni 1974.



of economic structure in terms of aristocratic traditions causing a decline in the risk-taking spirit of the English bourgeoisie.<sup>8</sup> Any such thesis needs to be confirmed by reference to the exploitation of the working population both at home and in the colonies. And this has not been possible.

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<sup>8</sup> Wiener 1982.

## **Part Five**

### **The Organisation of Generalised Power: A Conceptual Framework for Historical Epochs**



The concepts of historical epochs I shall present in this section are both preconditions and results of this book. The assumption of a fundamental structural difference between bourgeois societies and the forms of organisation of rule that preceded them determined the problematic of the investigation; specification of the contents of these concepts and the proposal to introduce the 'ancien régime' as a structural type resulted from the course of my research. I confine myself here to presenting the results, so will refrain from repeating a long process of debate with the concepts current in this field.

In the present work, 'feudalism', 'ancien régime' and 'bourgeois society' denote types of ordering of rule and society, the relevant structural features of which were widespread in large parts of Europe at particular times. Whilst the structural type 'bourgeois society' acquired a certain extension beyond Europe by way of colonisation, this was not the case for 'feudalism' or the 'ancien régime'. There certainly were elsewhere forms of seigneurial power, armed aristocracies and processes of centralisation of ruling force. But I maintain that the structural context in which these social forms stood was so different from that in the medieval European 'world' that the formal similarities of certain features are irrelevant.

The structural types proposed here differ from conceptual types based on the classification of empirical features. They are not based on empirical

phenomena, such as the 'decentralisation' of rule under feudalism or the formation of a standing army under the *ancien régime*, but, rather, on similarities in the underlying structural conditions for historical developments.

To this extent, the concepts of historical periods used here are constructed in a similar way to those prevalent in the Marxist tradition since its founders: they are linked to a theory of historical development. But, whereas Marxist theoretical conceptions generally assume the same developmental dynamic in all the periods we are dealing with here – whether this dynamic is one of development of the productive forces or of class struggles – the notions proposed here are based on a developmental dynamic specific to the particular epoch.

The theoretical claim that I make in defining these structural concepts is different for the various epochs. I leave to colleagues more specialised in the study of these epochs the attempt to add yet another definition of 'feudalism' to an already numerous list. As far as this historical epoch is concerned, the following notes are designed only to avoid particular explanatory cul-de-sacs. My intention is simply to explain what I mean in talking of feudal rule and feudal power, including feudal power of appropriation. This, however, already assumes a theoretical system that justifies use of the term '*ancien régime*' as the hallmark of a historical structural type.

A further limitation arises from the central question of this investigation. The conceptual definitions proposed here emphasise those structural moments ascribed special importance with respect to the historical preconditions for the development of bourgeois state power. This leaves out of consideration, for example, the fact that the cultural form of warfare that was central to feudalism resulted in specific conditions for the development of the culturally hegemonic relationship between men and women. Differences between developmental processes in Europe and elsewhere are also not explicitly discussed.

## I. Feudalism

The ironic remark that Frederic William Maitland made in his lectures of 1887–8 still applies to many structural definitions of feudalism: in England, feudalism was not introduced by William the Conqueror but by a seventeenth-century historian, and it reached its apogee in the mid-eighteenth century.<sup>1</sup>

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<sup>1</sup> Maitland 1920, p. v.

Ever since scholars of the seventeenth and eighteenth centuries sought to explain the features of previous historical orders (their residues being still visible) with the help of social connections and patterns of thought that were characteristic of their own time, there have been countless attempts to define feudalism as a *system*. Two dominant patterns of interpretation can be discerned, though each of these has been further differentiated. One tradition of scholarship pictures feudalism above all in terms of castles and knights, the other in terms of rebellious peasants.

With certain exceptions, what both of these main orientations have in common is that they construct feudalism after the model of bourgeois society. Even when the system of fiefs is discussed in terms of relations of personal *right*, the assumption is generally made that a realm of law exists independent of the personal practice of rule, just as reference to a characteristic *connection* of economic and extra-economic power under feudalism already assumes the existence of economics and politics as separate spheres. The conditions for structural change, the crises and decline of feudalism, are accordingly pursued either in terms of the structural context of feudal ties and their military organisation, or else that of land lordship. If representatives of a concept of feudalism oriented to the system of fiefs often see the extent and form of exploitation of peasants as not much more than an intermediate link in the structurally decisive relations among lords, for those oriented to land lordship as an organisation of relations of production, warfare frequently appears as no more than a free-time occupation of members of the ruling class, and, though religion is ascribed a comparatively great structural significance, this is not fundamentally different from that in any later epoch.

The concept of personal rule that I shall go on to explain is designed to avoid the pitfalls of these interpretative models, as well as grasping the most important preconditions for the structure-changing dynamic of feudal society. In defining the content of this concept, I shall confine myself to those relationships that – despite considerable regional differences – were developed and reinforced after the turn of the millennium. (A procedure that can be justified only in the context of the limitations formulated above.)

In this connection, it is not only the question of the temporal beginning of the feudal epoch that is left out of consideration, or the usefulness of the division proposed by Marc Bloch into a first and a second feudal era. Two further questions contested by historians are also omitted: that of the causes

and forms of those processes in the course of which the conditions of life of slaves and free peasants (i.e. those subject to military levy) were equalised, by the former being given land – on condition of providing labour services and dues – while the latter, or at least the majority of them, were subjected to the immediate ruling power of the lords. Pierre Bonassie, whose impressive interpretation Georges Duby follows, in many respects, in one of his last works,<sup>2</sup> ascribes this development (for Catalonia) to the greater possibilities of enrichment that arose with the growth in population, the extension of agriculture and the spread of trade.<sup>3</sup> The other question is that of the origin of the feudal nobility. For many parts of the continent, a tradition of rulership has been assumed that stretched from the merging of Roman senatorial lineages with German warrior leaders, via the Carolingian service nobility that arose from this, through to the magnates of the turn of the millennium. In many regions, a far-reaching identity between freedom and nobility is assumed. The fact that even Anglo-Saxon England saw the emergence of lineages of magnates and a stratum of peasants dependent on lords, is generally left out of account in these studies of the nobility.

Even for the period after the millennium, it is scarcely possible to speak of ‘societies’ in the modern sense of the term. The mechanisms by which *functional connections* are reproduced in modern societies were lacking. Feudalism did, however, have mechanisms of integration: the armed competition for possession of power, and the unity of the feudal ‘world’ constituted by the rule of the church. In the development of a largely unitary canon law, the transmission of knowledge by the clerical estate, and – above all – the sanctioning by power of ideas about God and the world, good and bad, justice and injustice, generalisations arose that are presupposed in the use of the unitary notion of an epoch.

### *Personal rule*

Ruling power under feudalism was the property of individuals. Because of the prevailing idea that royal rule or local seigneurial rule did not completely disappear with the death of the king or the local *seigneur*, and because the

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<sup>2</sup> Duby 1987.

<sup>3</sup> Bonassie 1976, Chapters 10–12.

practice of particular forms of rule brought with it particular obligations, arguments appear time and again in the literature that assume rule already existed in an institutionalised form, independent of the person of the ruler. This practice is most clear in the use of the term 'feudal state'. It is all too easily forgotten, as soon as the term 'state' appears, that under feudalism there was not yet a sphere of rule that existed independently of concrete personal relationships. And, for this reason, it is undesirable to use the term 'state' to sum up the customs involved in the practice of rule, the notion of the two bodies of the king, and the idea that rule can in a certain fashion outlast the lifespan of its owner.

Rule was exercised in practice by the use of armed force, sacral power and judicial power, the first two of these being based on personal rule while the application of judicial power reproduced this, as also did the landlord and seigneurial power of appropriation. The personal character of rule is revealed in the bodily gestures of the rulers who commanded obedience. Rulership in the age of feudalism was not just the property of individuals, it was also directed at individuals. Gestures of submission or loyalty were demanded of them. The exercise of rule applied to persons not as isolated individuals, but as members of kinship groups. If the basis of personal rule changed, so too did the form of family. This connection will be indicated here just by a particular example, the fact that the basis of noble rule in land lordship led to rules of inheritance being important. Whereas the powerful had earlier lived in kinship associations (on the continent still in the Carolingian age) in which membership was transmitted by both the mother and father, the basis of noble rule in the hereditary seat of a lineage led to forms of kinship becoming important that were vertically transmitted – generally through the male line. A 'side effect' of this development was the 'invention' of illegitimacy. Only with the emergence of hereditary claims did the difference between legitimate descendants and extramarital offspring acquire its significance.

Lineages continued to remain the 'organisational' basis for the lords' strategies of appropriation and advancement down to the end of the *ancien régime*, as well as for those who sought to become lords. In the Middle Ages, however, a first important structural change already came about, to the extent that family associations everywhere lost their character as an organisational unit for the revenge of injustice practised against members of a lineage, and a generalised judicial power with *de facto* validity was established. This made



possible a certain spatial and social separation between smaller (nuclear) families, which, in the meantime, came to dispose of parts of the possessions that the lineage had appropriated, and that had come to be inheritable. (A process that was either permanent, or on condition of biological continuity in the male line.) Alan Macfarlane's thesis<sup>4</sup> that a notion of individuality had established itself early on in England can be confirmed with respect to a separation of the rule of individual family heads vis-à-vis the lineage association. It is not however, as Macfarlane believes, based on an already established capitalism, but rather on the far-reaching generalisation of monarchical power.

*Foundation of personal rule in armed force and sacral power*

Feudal rulership was regulated by right (better, perhaps, by custom), and by religious teaching. The gestures of rule referred to these contents. Yet ruling power was only reproduced in the practice of symbolic power if these gestures and words could be backed up if need be by force of arms. No matter how justly rulership was acquired, it was only valid in connection with an armed sanction that was either actually applied, or could potentially be so. Justice was not the basis of rule, but a function of it.

This assertion holds especially for feudal relations in the strict sense. If lords were not in a position to actually withdraw fiefs when obligations were unfulfilled, then feudal right did not actually exist. In practice, however, kings could as a rule only assert their feudal rule if they had at their disposal more than just this power of enfeoffment. Alain Guerreau was thus led to the formula that feudalism, understood as a system of fiefs, 'died in the arms of monarchy' before it could be fully implemented.<sup>5</sup> Because of this conditional context, feudalism or feudal right did not have any developmental dynamic of its own; there were only widespread conceptions of personal obligation that might play a role in competition for possession of power – or might not. The same went for the sacral character of ruling power. It pertained to a property of rulership, yet only to the extent that it could also be demonstrated in non-sacral force.

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<sup>4</sup> Macfarlane 1970.

<sup>5</sup> Guerreau 1980, p. 197.

At the start of the period under consideration here (around the year 1000), the sacral character of all ruling power existed to a certain degree independently of sanction by the church. A hundred years later, the Roman *curia* had managed to appropriate definitional authority over the sacral.

This change – decisive for the development of the organisation of ruling power – was the result of struggles that the stronger territorialisation of rule had provoked. In the same way as the regularisation of appropriation through land lordship provoked conflicts in the relationship between king and emperor, this was also the case with the relationship between emperor and pope. The popes consistently challenged the legitimacy of the claim to universal rulership proclaimed by the emperor in the ninth century, as soon as they had succeeded, with the help of the Roman aristocracy, in establishing themselves as secular rulers and thus becoming partly independent of imperial protection.

This development was expressed especially in the struggle over the right of investiture. Whilst the Roman *curia* had necessarily been prepared to accept a compromise solution – different for each kingdom – with respect to appropriation by the exercise of church rule, it succeeded in acquiring control over the goods of salvation. Even this was never entirely complete.<sup>6</sup> The popes neither managed to forbid the anointing of kings, nor could they deprive kings of their ability to work miracles; in some places, the balance of power did not even allow them to force bishops to implement an excommunication that the pope had pronounced.

The struggles between emperor, kings and pope were not of immediate relevance in giving religious practice in the villages a Christian inflection. Nor should the efforts or even the successes of Christian missionary work be too highly assessed. The Crusade movement, however, did acquire a tremendous scale, both geographically and socially.

Even after the end of the investiture dispute, the ubiquity of the sacral continued, but by the church maintaining its claim to sanction the most important means of symbolic ruling practice, and thus to a certain extent becoming an instance for managing the legitimisation of rule. In this way, it constituted itself as what we retrospectively describe as a secular power, supplying one of the structural preconditions for the objectification of power.

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<sup>6</sup> Barlow 1980, p. 15.

The medieval church was an organisation of feudal rule and appropriation. At the same time, however, it was also the organisational form for the generalisation of practices of life in which people gave form to their vision of the order of all things – in the conditions of their particular life as determined by power. This was always necessarily a process that involved not only the lords, and analysis of feudal rule is therefore cut short if its religious regulations are seen simply as instrumental manipulations of noble interests by a church apparatus oriented to the nobility.

The doctrines represented by the medieval church came into being through a lengthy adaptation to warfare (long contested within the church), the dominant cultural form of feudalism. The beginnings of this development are already to be found in St Augustine, but, as late as the ninth century, the use of armed force was still penalised in the books of penances. (A regulation that was also applied by the bishops who demanded penance from the Norman conqueror of England.) With the spread of the doctrine of just war, and its generalised application in the Crusade movement, the reforming papacy of the late eleventh century reversed this attitude of the church into its opposite. Now, all who took part in a Crusade were absolved of their sins. In this way, the church adapted to the cultural forms of the feudal aristocracy, but, at the same time, regulated these and turned warfare outward. This was a process that was all the easier to achieve in so far as many bishops and abbots had grown up as budding knights, trained in the use of weapons and stamped by the norms of knightly honour.

The second determining context for the doctrinal edifice of the medieval church was the struggle with ever new heresies. Precisely because the church was two things, an organisation of feudal rule and an instance for the legitimisation of ideas about a God-given order, criticism of existing conditions necessarily took the form of heresy, i.e. a practice of belief that threatened the foundations of church rule – at least in the eyes of the Curia. ‘Heresies’ were conceived in small circles of the educated, but borne by mass movements of the common people.

### *Feudal forms of appropriation*

Under feudalism, appropriation was a component of ruling power. This means firstly that the analytical concept of feudal power encompasses the social form of appropriation, and secondly that there was no such realm as

'the economy' that was distinct from the practice of power. This assertion has key importance in the theory of historical development, forbidding the simple transposition of 'economic interests' back to a time in which what mattered was the reproduction of the status of lord, not just that of rich man. (It is quite pertinent, for example, to emphasise the aspect of armed appropriation that was linked with the Crusades. But it would be wrong to reduce the Crusades to this aspect alone. To remain at home and systematically dedicate oneself to exploiting the peasants might have been an economic alternative, but it was not a possible alternative for a knight.) Furthermore, the analytical conception of feudal rule implies that there was no developmental dynamic of a feudal mode of production that could develop outside of competition among lords – a competition that was shaped not by the market but by armed force. Its results were influenced by the degree of seigneurial appropriation, but in no way completely determined by this. Decisive for the possession of power were success in war, marriage, inheritance, the favour of a powerful lord, and other such factors. Conversely, however, the power that lords could bring into play in conflicts over the level and forms of extraction of 'surplus' labour had its effect on the development of landlordism. This was even the case when – as a result of plagues – there was a general shortage of labour-power. Feudalism involved not just a particular connection of 'political' and 'economic' power, not a connection between two separate spheres, but rather a unitary reciprocal effect.

So as to avoid the danger of a mental separation of the economic sphere, I use the term 'feudal appropriation' to characterise all forms of appropriation that are structured by the lords' possession of power. In this sense, feudal appropriation comprises not only appropriation in the forms of land lordship, seigneurie and fiefdom, but also appropriation by war, the appropriation form of marriage, and the use of trading privileges sanctioned by ruling power.

In the second half of the eleventh century, some of the freemen summoned to the lords' levy managed to raise themselves into the stratum of lords. This was thus expanded into an aristocracy of warriors – with differing structures according to region. The precondition for this separation of warriors from *rustici* was a military development. The use of the stirrup – introduced by knights returning from the east – made it possible for knights to fight not just with light spears but with heavy lances. Maurice Keen describes the new 'cavalry tactic' as follows:

The spear or lance is tucked tightly under the right armpit, so that it remains steady, and gripped further back, with the left arm left free to handle reins and shield. Horse, rider and lance are thus gathered together into what has been called a 'human projectile'. A body of horsemen thus armed can deliver at a massed enemy a hammer blow, whose effect depends on the momentum of the charge and the shock of the impact.<sup>7</sup>

This way of fighting demanded equipment, training and practice. It was beyond the reach of the majority of the peasants who had occasionally joined in military campaigns, and required lords to maintain young knights in their own households, and find various possibilities of maintenance for older knights outside the castle. They were also concerned to tie formerly independent knights to themselves by 'obliging gifts' or formal contracts. At the same time, these military developments demanded a regular – and more widespread – material basis for the lords' existence. The emergence of an aristocracy of 'professional' warriors went together with strategies for expanding the appropriation of lordly power. By the threatened and actual use of armed and judicial force, peasants were obliged to provide labour services and dues – in regionally differing forms. Whether lords based their demands on the peasants belonging to them life and limb, or on having conquered power of disposal over the land, or whether they claimed authoritative power [*ban*] over people who lived in a particular territory, was decisive for the form of exploitation, but not necessarily so for its degree.

Independent of the specific grounds, what was involved was the development of 'institutions' of rule that were oriented to individuals and remained based on immediate structures of armed force. These were only formalised in the course of time, and there were scarcely any materialised structures like those in which institutions of rule are reproduced in modern societies. Yet the first signs of these did emerge. The *donjon* was both functional centre and symbol of *castellania*. The *donjon* differed from the modern materialisation of social relations chiefly because it presented the forcible character of ruling power in visible form. The bells that – increasingly from the thirteenth century – rang out the hours of prayer, work and leisure, proclaiming in this way the regulation by power of the divisions of the day, were a different matter. By this time,

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<sup>7</sup> Keen 1987, p. 24.

the social forms of feudal appropriation were already firmly established, and the church bells can be seen as the start of that comprehensive regulation of everyday life that characterises modern societies. In this regulation, rule in a certain sense hides behind functionality.

Warfare was also a regular form of feudal appropriation. From an economic standpoint, this was simply robbery. The appropriators had not previously influenced the production process by the manner of their exactions (such as the demand for labour services, or the exaction of livestock on the death of a dependent), they rather enriched themselves from results of production that had already been appropriated, from possessions of lords or merchants and from the provisions of peasant families. The economic perspective however is insufficient here. Warfare was the dominant and generalised cultural form of feudalism, a culturally regulated deployment of armed force. Knights – and it is only to them that such behavioural norms applied – could obtain honour and wealth through war, but they could also be impoverished and lose their lives. There was no other sanctioning instance for these behavioural demands on warriors than the esteem of fellow warriors. They were therefore based, like many things under feudalism, in a prevalent mentality (a situation that Georges Duby especially stresses in his work). It pertained to the regulated practice of the use of arms that knights fought to the death only in exceptional cases, their more general aim being capture. Ransoming was a means of enrichment that was relatively rapid and could also bring fame – if the prisoner was of particularly high rank. Conversely, ransom demands could place lineages deeply in debt. If kings were captured, not only were all their vassals obliged to contribute to their ransom, but special dues and currency manipulations also affected merchants and peasants. That war was a regular form of acquiring fame and fortune is shown even in the fact that it was customary for exercises in weapons training to be made into feasts. A warrior who fell in a tournament could be taken prisoner, just as in a real battle, and be forced to pay ransom. In this way, poor squires and illegitimate sons of nobles were offered an opportunity to seek the material preconditions for their equipment as knights, and sometimes even for the ceremony of dubbing that later became rather expensive.

By marriage, women were transferred from one household to another. Marriages served to reinforce or establish reciprocal relations of obligation between lineages, but they were also a means of appropriation. Just like participation

in war, marriages could also be especially a matter of honour (in the case of a particular connection), and again like war, marriages involved appropriation not only as a by-product, but – at least among lordly lineages – as a central content of social practice. On top of these formal analogies, moreover, marriages were often integrated into the cultural form of warfare and compelled by force of arms. The English term ‘rough wooing’ long denoted the forcible character of such marriages. This behaviour is still reported in the sixteenth century, its very characterisation giving it justification.

I also count *privileged trade* among the feudal forms of appropriation – contrary to most established research. Privileges were bestowed by lords on the basis of their armed force, and – at bottom – it was this force that also guaranteed them. Mercantile appropriation – as distinct from petty local trade – thus stood in three senses in the forcible context of feudal rule: because long-distance traders had to be warriors themselves, because privileges excluded market competition or substantially limited this – a situation analogous to the structural barriers erected by landlord power to the rise of a market in labour or land –, and because the granting of privileges generated a form of income for the lords that rested on their possession of armed force and judicial power. The same judgement can be made of *guild privileges*. These however do not necessarily coincide with the foundation of guilds, and were often sanctioned by power only in the era that I refer to as the *ancien régime*.

From the start of the period under consideration here, feudalism knew not only commodity production and long-distance trade, but also wage-labour and objectified structures of personal obligation. At an earlier date than was long supposed, knights held fiefs from more than one lord and thus could only conditionally pledge loyalty with their body and honour. Much earlier, too, mercenaries were employed, i.e. specialists in warfare who were hired for a single campaign and then paid off and dismissed. But during the whole epoch of feudalism, at least according to the thesis advanced in this work, the development of market and law remained subordinate to the structural context of the possession of armed force. This development altered to a very considerable extent the conditions for struggles over the form and extent of class-type appropriation, as well as those over possession of ruling power and the forms of its practice. But, under feudalism, there was still not the tendency to monetarisation and formalisation – i.e. rationalisation in the Weberian sense – that would later develop independent of the concrete practice of rule. To

emphasise this connection, I count privileged mercantile and artisan production among the feudal forms of appropriation. Its bearing groups competed for shares in the appropriation of 'surplus' product with lords who enriched themselves from seigneurial rule and war, and sometimes competed also for possession of power – as when the urban burghers strove for rights. Differences of interest of this kind existed also among members of the aristocracy and nobility. Such differences among the possessors of land-lord power are a feature of the organisation of feudal rule, not its underlying contradiction.

*Structural dynamic of feudal 'societies'*

In all feudal 'societies', material reproduction is limited by the social form of production. Increases in production chiefly resulted – as is generally agreed by scholars today – by the expansion of cultivated areas and the increased labour-power that was required for this. This kind of rise in production faces definite limits. Simple Malthusian models, however, are not appropriate, as the growth in population around the turn of the millennium can be explained equally by a change in the practices of biological reproduction arising from a changed organisation of appropriation (at least as regards the dissolution of latifundia), while the 'overpopulation' of the early fourteenth century can be seen as bound up with prospects of subsistence being confined by power. Nor was the level of development of the productive forces the only limit on agricultural productivity, this being also determined in particular cases by the manner of extraction. (Research has clearly shown in recent decades how the formerly widespread idea that seigneurial power remained largely external to the actual organisation of production is unsustainable.)

These objections in no way alter the fact of the limited basis of material production in feudal 'societies'. Crises of material reproduction – and of biological reproduction in their wake – were a structural feature. This crisis structure initially had a cyclical character. Although the end of a crisis did not see the restoration of previous conditions, the structural change – such as for example the concentration of landholdings and the partial dissolution of seigneurial forms of appropriation – finds its explanation not in the specific dynamic of the mode of production itself, but rather in connection with competition for possession of ruling power.



As an example to illustrate this situation, we can refer to the fact that at the time of the plague epidemics, which from the 1340s spread across large parts of Europe in deadly waves, peasants in England were able to achieve an easing of their obligations, owing to the lack of tenants, and many even managed to obtain their freedom. This was especially the case in manors whose owners could oppose to the peasants only their monopoly over the preconditions of their production, and was far less the case for lords who had forcible means of defending themselves against their rule being curtailed by a labour 'market'. In this way, though on the one hand seigneurial power was abolished, powerful monastic manors were able to make up for the losses that resulted from the decline in their number of workers by an increase in their demand for services and dues. They, too, finally succumbed to the effects of the Black Death – but only some four decades later.

The structural dynamic of feudal societies is explicable above all in terms of competition for possession of power, and from the effects that the results of this had on the preconditions for social struggles over the extent of the 'surplus' product and the forms of its appropriation. Competition for possession of power increased over time the costs of its exercise in a double way, raising the costs of both the means of rule and of its personnel. These costs were expressed in money, for example the equipping of knights that became ever more onerous, and from the fifteenth century the costs of acquiring cannon and improving fortifications. The increasingly professionalised infantry did not only reduce the military importance of the battles of knights, it sealed the end of the feudal form of warfare. It equally meant that wars from now on required a financial basis that might be temporarily established by tactical alliances (such as the Hanseatic League) but, in the long term, was possible only for an established princely rule.

The increase in the personnel costs of rule resulted first of all from military competition, i.e. the requirement of hiring mercenaries, arising both from the dissolution of vassal obligations and from the structural change in warfare. At the same time, the exercise of rule required an increasing degree of specialist legal knowledge. There were three reasons for this. Firstly, legally trained specialists were useful for unarmed (i.e. principally legal) conflicts among lords and for the conclusion of all those fiscal agreements that were a concomitant of the concentration of ruling competences; secondly, lords used the formalisation of their practice of rule in order to appropriate, with the help

of their personnel, definitional competence over the local custom of rule (formalisation, in the sense of a written fixing of rules, made it possible to deploy the knowledge of rulership against peasant interpretations of right and justice); thirdly, this was a successful strategy of social advance. Specialists in the unarmed exercise of rule (though they still resorted to weapons when need arose) were not only increasingly indispensable for reproducing the status of eminent lineages, they *made* themselves indispensable. The generalised social practice of specialists (today we would describe this as a strategy of professionalisation) forced through the objectification of feudal rule. It also founded demands for maintenance and reward.

The increasing costs of the exercise of rule affected lords to different degrees. Those who could scarcely afford to equip their sons as knights had no chance of taking advantage of the personnel now required. This also reduced their chances of reproducing their status as lords. At the same time, however, both individual families and entire social groups such as legal scholars (of whom many but no longer all were clergy, depending on the prevailing legal system) constantly pressed for social advance, as did well-to-do burghers. Their modes of action provoked strategies of defence: the concept of noble birth, and the anchoring of noble privilege in generalised rule. The constitution of the nobility as an estate not only put an end to the temporary expansion of magnate lineages into an aristocracy of warriors, but also to that epoch for which use of the term 'feudalism' – not a happy one, but established in scholarship – makes analytical sense.

## **2. *Ancien régime***

The concept of 'ancien régime' was coined by activists and champions of the French Revolution to describe what they wanted to abolish. The fact that this pejorative political slogan gained far wider currency than the English term 'Old Corruption' which was used slightly later expresses very well the difference between the two political struggles. The concept of 'Old Corruption' described abuses, while that of 'ancien régime' condemned the foundations of the social and political order. In the 1790s, the term 'ancien régime' also served as political explanation of the causes of war: 'the Revolution' was opposed by the 'old forces' of Europe.

The term 'ancien régime' was first used in a scholarly sense by Alexis de Tocqueville in 1856. Tocqueville studied the old order as a crisis-prone functional context, from which he explained both the preconditions for the Revolution as well as important structural elements of the post-Revolutionary society. Why Tocqueville's analysis has remained decisive for subsequent scholarly use of the concept, however, is that it contained the idea of the destruction of feudalism and served in general to characterise a development understood as decline. This last aspect is particularly clear in Arno Mayer's thesis that the First World War was unleashed by representatives of the *ancien régime*, and that only in the course of the war did this social order finally succumb. For Mayer, the structure of society was determined by the continuing importance of agriculture, and the political influence of men who bore a noble name.<sup>8</sup>

Although a number of works have appeared in recent years in which the term 'ancien régime' is not restricted to describing a form of government,<sup>9</sup> the narrower concept was dominant in research for a long time. This may reinforce the reservations Marxists may have against my proposal to use the term 'ancien régime' to denote a historical epoch. It is not the term on which I insist, however, rather that the introduction of a structural type, with a conceptual content to be subsequently explained, corresponds to the demands of a historical-materialist analysis, which – once freed from structuralist and economistic traditions of interpretation – uses the possibilities opened up by a theoretical concept oriented to an analysis of the entire context of a society, its reproduction and its change through social practice. If the conditions for generalised social practice fundamentally alter, accounting for this requires analysis of the *particular historical forms* and their structural connection – even if this means abandoning concepts that are not only hallowed by custom, but have had to be defended in many forceful struggles against scholarly and political opponents.

The structures of the *ancien régime* took shape in a historical phase that in scholarly literature is described either as the 'autumn of the Middle Ages' (Huisenga) or as the 'spring of modern times' (Näf). As for the period in which the forms of rule of the 'ancien-régime' type prevailed, the literature offers such varying descriptions as the 'early modern era', 'feudalism' and

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<sup>8</sup> Mayer 1981.

<sup>9</sup> E.g. Campbell 1988; Doyle 1986.

‘absolutism’. All these definitions are excluded by conceiving the ‘ancien régime’ as an epoch. On the other hand, the ‘age of Reformation’ and the ‘modern age’, both thematising the change in spatial and temporal horizon, can be integrated into the analytic conception proposed here.

### *Refoundation of personal rule*

Under the *ancien régime*, the foundations of personal rule – both those of generalised power and those of seigneurial power – were different from under feudalism. Feudal rule was based on direct relations of force, whereas rule under the *ancien-régime* structural type stood in a context of objectified social relations: a generalised system of justice and the market were both structural preconditions for the practice of rule. This structural change did not abolish the personal character of rule. Monarchical power did not lose its personal character by the generalisation of royal fiscal and judicial power, any more than seigneurial power lost its personal character by the transformation of labour rent into money rent.

There is no justification for speaking of the state finding ‘a new sense of life’ in the fourteenth and fifteenth century,<sup>10</sup> any more than of the socially neutral instance that Kierman claims to have taken shape between 1550 and 1650.<sup>11</sup> Neither did the writings of William of Ockham have any direct effect on the subjects of the state, as Josef Engels claims,<sup>12</sup> ascribing philosophical writings a direct relevance on religious practice. If kings appointed officials and decreed laws for their kingdom, this did not constitute a ‘modern state’ or even its early form. Monarchical power remained in the hands of an individual, and royal rulership still retained its sacral character under the *ancien régime*. In Otto Brunner’s enlightening hypothesis, European kings were only prevented from extending their sacral power into a religiously based despotism by the fact that the popes could rely on the support of local powers – in other words, those taking shape as estates – in their struggle against such developments.<sup>13</sup>

The structure of rule of the *ancien régime* arose with the integration of aristocratic rule into generalised power: the constitution of a noble estate. By

<sup>10</sup> Näf 1967, p. 111.

<sup>11</sup> Kierman 1980, p. 257.

<sup>12</sup> Engels 1971, p. 47.

<sup>13</sup> Brunner 1967, p. 122.

this process, the previous possession of rule by the aristocracy (or a nobility already constituted locally as an estate) was restricted, but, at the same time, guaranteed by generalised rule. Noble power became a *privilege* in relation to generalised princely power.

In this way, seigneurial appropriation changed its character. Because this was tied into generalised and more or less codified legal structures (or, in some cases, explicitly excluded from these), it developed into a rule that existed *in connection* with generalised princely power. For this reason, too, the fact that in many regions of France in the second half of the eighteenth century a large part of the income of landowners was still derived from seigneurial appropriation is no argument for the persistence of 'feudalism'. Contemporaries may well have used the concept of feudalism for political purposes. But, in the development of societies of the *ancien-régime* type, what was initially at best a postulate gradually became reality: the particular power competences of private individuals became a rule *de facto* dependent on the crown, as their existence depended on the power of the latter.

At the same time, the character of generalised power underwent a change. Though this still belonged to the king, generalised power now had its foundation in noble privilege. While the practice of generalised rule had previously demanded the establishment and maintenance of personal connections, it now required – in addition (!) – respect for the generalised conditions of reproduction of noble rule. Depending on the specific structure of power distribution, this change had the effect that the earlier duty of vassals to stand by the king with advice and aid was transformed either into the demand for representation, or the demand for particular negotiations with the possessors of privileges.

Under feudalism, too, the duty of advice corresponded to a *de facto* claim to participation. For without the support of his barons, no medieval king would have been able to wage war, or even rule at all. This basic structure of reciprocal dependence remained in existence under the *ancien régime*, but its character changed to the extent that wars were increasingly dependent on the crown's generalised fiscal power, and the exercise of its rule likewise depended on generalised sanctioning and judicial power.

The constitution of estate interests took place in the context of a generalisation of monarchical power. Different strata of nobility and burghers pursued the securing of their privileges with mutually competing goals. But

they determined their estate demands *in relation to* the crown. The latter thus developed into a *status-regulating instance*, if to a very varying degree in different 'national' spaces. Ennoblement by letters patent is an expression of this competence.

### *Market and power*

Research findings in recent decades have made clear that the fiscalisation of the practice of personal rule in the age of feudalism was further advanced at all levels than previously supposed, also that the relevance of market structures in the age of the *ancien régime* was previously overestimated. Everywhere that small peasant modes of existence persisted, the integration of peasant families into the market was limited to the degree imposed by power. Even lords by no means followed consistent patterns of market rationality in their practice of rule.

The spread of market structures was driven not by any autonomous dynamic of 'economic' development, but rather by struggles over the extent and forms of personal rule. The fiscalisation of ruling practice was the most important precondition for the development of trade, though this does not mean that the supply of goods did not conversely promote desires for fiscalisation. The increase in fiscalisation had two causes. On the side of the lords, the exercise of rule, even if confined to the defence of power already acquired, demanded resources that increasingly could be obtained only for money, while on the side of those dependent on them, fiscalisation promised a broader room for manoeuvre and greater personal freedom. (This assertion applies without reservation to the fiscalisation of the vassal obligations of lords. Peasants did not in all circumstances see fiscalisation as an improvement in their conditions. It was sometimes even forced on them.)

The fiscalising of personal rule in no way had unambiguous consequences. For peasants, it meant better prospects of advance, but also the danger of getting into debt and losing the foundations of peasant existence. For lords, it offered the prospect of confirming their social status by wealth and thus strengthening their position, but also the danger of reducing the material foundations of their lordly existence by indebtedness.

In the course of the *ancien régime*, though social status continued to be determined by the forcible sanctioning of rule, this determination was increasingly supplemented by a separation – to a previously unknown degree – of

the spheres of material life. One of the most important empirical structural features of societies of the *ancien-régime* type is their polarisation into rich and poor.

In the eighteenth century, this polarisation seems to have been greater than ever before, and, in all probability, it was especially extreme in France – at least this is what both Alexis de Tocqueville<sup>14</sup> and Olwen H. Hufton<sup>15</sup> assume. Just as in all societies of the *ancien régime*, a hierarchy of intermediate strata and their respective practices of demarcation can be established, as can also successful strategies of social advance by both individuals and groups. In comparison with historically previous epochs, however, the great inequality of access to the goods of this world is particularly striking. This constituted an element of crisis in societies of the *ancien régime*.

Though it was not wealth that determined status, social precedence – among members of an estate – and political influence increasingly demanded a practice of rule that presupposed wealth. Under the *ancien régime*, a new legitimisation practice was introduced. Rule was legitimised by itself, or more accurately, by its glamorous *re*-presentation. Josef Engel<sup>16</sup> called this phenomenon the ‘heroism of the beautiful appearance’, while authors speak of Renaissance princes when they want to refer to the splendour of rulers acquiring a previously unknown scale.

The glamour that rule was now to present was served by art. This was all the more effective, once artists claimed superiority to the estate of artisans – in this way forming an interest group that crossed the borders of realms. Even if artists still worked to commission and for payment, art now distinguished itself from artisan products by a truth of its own.

The practice of representation of rule lastingly marked the conditions of development of manufacture and trade. Never before or since was so much energy expended on the outward appearance of lords, on their buildings, equipment and promotion, according to Olwen H. Hufton in his analysis of the eighteenth century.<sup>17</sup> In all the great cities of Europe, at least 13 per cent of

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<sup>14</sup> De Tocqueville 1978.

<sup>15</sup> Hufton 1980.

<sup>16</sup> Engel 1971, p. 24.

<sup>17</sup> Hufton 1980, p. 40.

the inhabitants were employed as servants – not all, but very many of them, in the houses of the rich.<sup>18</sup>

The attributes of personal rule already developed in the course of the *ancien régime* as preconditions for abstract wealth becoming a standard of value, and a standard which led to a considerable section of the nobility – both low and high – being unable to reproduce their lordly status. Certainly, for the whole duration of the *ancien régime*, *source of family income* remained decisive for social status, yet structures of reproduction of rule arising from the indispensability of outward display made the realisation of noble rank in practical social validity dependent on successful competition for wealth. When not all members of the nobility could manage this (in conditions that differed nationally to a marked degree), the *de facto* competence of the crown to regulate social status diminished with it. From a systemic point of view, this means that class position began to determine status, if so far only to a very limited extent.

#### *Private participation in centralised appropriation*

So long as appropriation remained a structural element of rule, the expansion of ruling competences offered the prospect of expanded appropriation. Fundamentally, this held also for generalised personal power. Since, however, this generalisation could be effected only in collaboration with the possessors of partial rule, the demands of the latter could either structurally restrict the actual organisation of centralised appropriation, or immensely expand it at the price of private participation. Even where regular centralised appropriation was comparatively limited and its temporary expansion required a separate basis and agreement, there was private participation in centralised appropriation. This took a variety of forms: the regular acquisition or transmission of office competences with the right to demand fees and propose presents, income from farming the princely tax-raising power, profits from lending to the government, regular presents and pensions as well as the indirect material benefit that successful patronage offered, by nobles bestowing office income on their clients, and thus saving costs on their own practice of rule.

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<sup>18</sup> Hufton 1980, p. 39.



In a number of different ways, Lawrence Stone,<sup>19</sup> Perry Anderson,<sup>20</sup> as well as Herbert Gintis and Samuel Bowles<sup>21</sup> have undertaken not only to describe the fact of appropriation mediated by the crown, but also to explain it in structural-analytical terms. From the fact of the nobility's advantageous participation in the material results of centralised power (not exclusively, but to a considerable degree), both Stone and Anderson conclude – in otherwise quite different works – the existence of a crisis of the nobility and of 'feudalism'. Even before discussing any of the many empirical objections that have been raised, this rests on a logical mistake (also familiar, in just the same way, in analyses of imperialism). Exploitation of a new or, at all events, especially favourable possibility of appropriation is no evidence for a general crisis of material reproduction. Bowles and Gintis are not especially concerned with the nobility, but seek to understand the epoch described here as the *ancien régime* as a structural type. The description they propose is 'state commercialism', or a 'state commercial social formation'. But, despite agreeing with their emphasis on the particular structural conditions of reproduction, I cannot follow them here. In the first place, the concept of the state – made into a structuralist category by Bowles and Gintis – cannot do justice to the particular conditions of personal rule, and, secondly, while commercialisation did indeed decisively determine the conditions of reproduction of lordly status, it abolished neither the structural importance of warfare nor that of the practice of personal power. Moreover, the objectification of rule and the significance of commodity production remained limited for the conditions of reproduction of the peasants under the *ancien régime* (even if regional differences and differences of property relations played an important role). Finally, this description ignores the fact that the extent of appropriation mediated by the crown was an important structural determinant on the development of manufacture and trade, and, to some degree, even on that of agricultural production. With new possibilities of investment and profit, participation in generalised princely power competed not only in the quest for profit, but also in the winning of status. The notion proposed by Bowles and Gintis, however, makes it possible to view centralised appropriation no longer just in the optic of a subvention

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<sup>19</sup> Stone 1965.

<sup>20</sup> Anderson 1974.

<sup>21</sup> Bowles and Gintis 1984.

of partial – ‘feudal’-aristocratic – rule (as with Stone and Anderson), but as a structural element of a material overall context based above all on taxation. This brings to the centre of analysis the causes of crises in material reproduction that were specific to the *ancien régime*.

### *Social totality*

Under feudalism, the overall context of a kingdom existed in the form of relations of armed force and a widespread mentality. There were indeed generalised competences of power, but realisation of these remained based in war and religion. Only in the event of extraordinarily far-reaching possession of generalised force was it possible for the practice of generalised rule already to constitute overall social-structural connections. (It is sometimes useful to indicate that market structures were not yet developed to the degree that they could have an effect beyond local social-structural contexts.) Only in the epoch of the *ancien régime* did society arise as a structural reality.

The foundation and form of existence of societies of the *ancien-régime* structural type was the practice of generalised personal power. This had two preconditions. Besides the already explained integration of partial personal rule into structures of generalised power was a readiness (internationally asserted) to accept certain spheres of rule as at least temporarily given realities. This was even the case for a while vis-à-vis the non-Christian ‘world’. In 1536, the emperor had to abandon his plan to march against the Turks. In Europe itself, a foreign policy of reciprocal recognition of the rights of sovereignty was introduced in the various peace treaties of the years from 1648 to 1661.<sup>22</sup> This transition to a ‘Europe of powers’ (Engel) corresponded to a change in the military. Almost everywhere, princes sought to free themselves from dependence on internationally active entrepreneurs and artisans of war, and, instead of this, establish and provide for ‘national’ armed forces. The extent and forms that such strategies took were varied. But, in this context, the actual systematising of the practice of monarchical rule was pursued more clearly than in any other realm of policy. Warfare continued to be under the *ancien régime* a determining moment of the development of power, but in a basically changed form.

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<sup>22</sup> Engel 1971, p. 25.

The territorialisation and generalisation of princely rule had the effect of intensifying the practice of rule – even if very slowly and always to a far lesser degree than is traditionally assumed in the concept of absolutism. In the course of time, the lacunae of feudal rule were filled.

This held good initially in a spatial sense. Under the *ancien régime*, the forest lost the character of a space free from power that it typically had in feudal conditions, as well as a synonym for dark and heathen forces.<sup>23</sup> The forest now became the object of privileges. These still gigantic and fearsome spaces were now incorporated into the governing authority of personal rule – at least at the level of a claim.

The intensification of rule becomes clear in relation to those individuals who lived on the territory in question. Beginning with the expansion of royal claims to rule over the subjects of royal vassals, and the reality – at first only fiscal – of a generalised relationship of subjecthood, princely power increasingly made itself felt in the flesh of its subjects. Michel Foucault has described this change as the transition from power to government.<sup>24</sup>

This change in the practice of rule is especially evident in the social technique of military drill, an invention of the *ancien régime*. In the deployment of drilled regiments, the meticulous power *over* bodies previously practised in case of emergency was replaced for the first time by a systematic practice of government *of* bodies.

Of greater structural importance was the claim to command the religious practice of subjects. This was not something new under the *ancien régime*, but, after the Reformation, it came to differ from any previous form of princely involvement in religious power. For the Reformation transformed the relationship between secular territorial rule and religious power into the relationship of governments to a particular confession. Since, in societies of the *ancien régime*, the morality sanctioned by the church remained the most important form of social regulation, governments after the Reformation were compelled to prescribe and sanction a confessionally determined definition of the contents of good order. More than ever, the contents of good order were backed up by theological arguments, and calculations of power fought out in wars of religion, while conversely such wars brought about changes in the

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<sup>23</sup> Cf. on this Duby 1981, p. 17.

<sup>24</sup> Foucault 1990.

practices of rule. Crises of church rule and those of princely rule were reciprocally connected.

The condensing of personal rule into government provoked the development of two structural elements characteristic of societies of the *ancien régime*: the formalisation of everyday practices and the constitution of spheres free from power.

In connection with the exercise of personal rule, the formalisation of everyday practices meant not so much that these were regulated by forms of general – formal – law, but, rather, that people faced one another as owners of various different – and very specific – rights. This can be most easily shown by particular examples. Thus the regulation of artisan production by guilds meant regulation of the rights of masters and journeymen. Whether apprentices had to open the shop for the journeymen in the morning, whether the latter could expect food of a particular quality at definite times, whether off-cuts of material were given to the workers – all such matters were not just a question of private labour relations, but rather of a ‘public’ organisation. This defined and sanctioned by power the rights of individuals over the production process. Peasant production, too, was not simply the exercise of private disposal, even for peasants who owned their own land, it was, rather, a practice of rights that were regulated by other rights. Under the *ancien régime*, the family was integrated into this structure. Even the rule of the head of the household over his wife and children for a long time did not have a private character. It was, rather – until those changes that will be discussed below – just like the rule of landlords or that of guild masters, a partial rule whose existence and exercise was integrated into generalised rule, being both limited and sanctioned by this. The formalisation of practices of everyday life was the form in which the practice of generalised rule was condensed into government. It was not social relations that this regulated, but rather legally determined public forms of existence.

To the extent that government institutionalised at least the claim to be a regulating instance for specific practices of life, a situation arose in which people no longer found themselves simply impelled to demand a further specific right, but – on the contrary – to define a completely new kind of right: the right to a sphere free from power. The integration of earlier immunities into generalised rule was a historical precondition for the rise of a notion of private liberties. (It becomes clear once again here that bourgeois societies

did precisely *not* develop out of feudal ones.) The first claim to a sphere free from power – and the most important one for the whole duration of the *ancien régime* – was provoked by the regulation of religious practice by power. The religious freedom that was demanded could mean two distinct things: the freedom to practise a belief that did not correspond to that prescribed by power, or the freedom to remove individual religious practice from public forms of religiosity that were experienced as empty. It was not just in Protestantism, but also in post-Reformation Catholicism, that pious individuals insisted on their rights within their own church. For, as against the situation under feudalism, the notion of piety caused people under the *ancien régime* no longer to withdraw from the world, but rather to formulate a claim to a sphere free from power. This had its social location in the family. In household prayer and mutual moral-religious discipline, such as was particularly characteristic of Puritan and pietist families, though not exclusively so, the claim to determine one's own belief was given practical expression.

The *privatising of the family*, however, one of the concrete results of the power-free space, had its foundation not only in religion. A still greater change occurred in the regulation of 'marriage'. All the complex problems around possession and inheritance remained. But, while the confrontation between man and woman had been previously located in the sacral realm, being therefore integrated, as Arlette Farge and Michel Foucault<sup>25</sup> emphasise, into the sphere of royal regulatory competence, the problematic to be regulated shifted in a certain sense with the historical fabrication of the 'sexual being' (H. Kentler). This social progress – Volkmar Sigusch describes it as the food question being supplemented by the social and sexual question,<sup>26</sup> and stresses that this last only became possible once the old struggle for bare existence had been basically won – was accomplished in European society of the eighteenth century in a specific form. The demand for freedom contained in the discovery of the 'sexual being' opposed the legitimacy of generalised regulation and precisely in this way constituted a sphere to be regulated. Over the course of the *ancien régime*, the family, much as it remained the organisational form for strategies of appropriation and advance, developed at the same time into the dominant social form of the administrative system. The married couple's bed-

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<sup>25</sup> Farge and Foucault 1989, pp. 56 ff.

<sup>26</sup> Sigusch 1989.

room was promoted in this way into the spatial centre of 'private life'. Though the practice of piety could also extend to families in which the head of the household organised production, the constitution of the family as an administering instance for sexuality was socially restricted. It could not develop where the material conditions of life made privacy impossible, nor, on the other hand, under modes of existence that were accomplished in the public forms of ceremonial.

Just as the demand for a space of piety and sexuality that was free from power was a structural feature of the *ancien régime*, so too was the demand to conceive good order in non-theological terms. The Enlightenment was, as William Doyle expressed it,<sup>27</sup> a 'phenomenon of the *ancien régime*'. Its forms of expression criticised the scope of the regulatory claim of personal rule, but not its actual existence. The Enlightenment, like Puritanism before it, became a revolutionary force only in connection with struggles that it had not itself set in motion.

Otherwise than is often assumed, I do not see the power-free space as having particular structural importance in societies of the *ancien régime*, neither for economic decisions nor for the historical origin of the private sphere. This certainly did arise, but the dominant thing was not the demand to abolish the regulation of appropriation by power, but much rather demands bearing on regulation. Not the abolition of privileges, but access to them, was the structurally typical form in which former non-privileged families and social groups sought to realise their ascent in societies of the *ancien régime*.

### *Privileges and interests*

The integration of partial rule into structures of generalised power had the result that crises of the *ancien régime* differed from crises of feudal societies. The *ancien-régime* form of rule, however, did not come into structural crisis simply because individual families or even a large number of these lost their partial (seigneurial) power, but only when the reproduction of generalised personal power was endangered. A danger of this kind *could* arise from the crisis-prone reproduction of seigneurial appropriation, but it did not necessarily have to. The persistence of the *ancien-régime* rule structure was certainly

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<sup>27</sup> Doyle 1986, p. 36.

bound up with the ability of generalised personal power to integrate partial rule and manage it in the form of privilege, but it was not tied to the content of any specific privileges.

There were two main causes of the reproduction crises of generalised rule, one following chronologically on the other. In the early phases, the most important possibility of crisis lay in the *frondiste* resistance of nobles to the generalised power. This differed in strength between the various realms, and was generally reduced by the high nobility being brought to court. To the extent that this presupposed the strengthened participation of the high nobility in the material results of monarchical rule, the potentiality of a noble *fronde* was transformed into the potentiality of a financial crisis of monarchical rule. We can maintain by way of generalisation that the earlier danger of *frondisme* was reduced to the possibility of political conflict, once the right of resistance that the nobility still claimed at the start of the *ancien régime* was in practice undermined by the structural change in armed force.<sup>28</sup> From now on, though the existence of particular dynasties might be endangered, and the ruling practice of particular monarchs sometimes faced major difficulties, the institution of a generalised monarchical power could no longer be endangered by revolts of the nobility. The persistence of the *ancien régime*, however – i.e. the context of objectified personal rule –, was endangered once this generalised power was no longer in a position to guarantee privileges.

Olwen H. Hufton, who titled his analysis of the eighteenth century *Privilege and Protest*, rightly stresses that, under the *ancien régime*, it was not just the nobility who enjoyed privileges, but also the inhabitants of particular provinces and towns, not to mention the privileges of the local poor vis-à-vis foreign beggars, or the privilege of suffrage that even men dwelling in wretched hovels possessed in certain English constituencies.<sup>29</sup> Neither the hierarchical structure of privileges nor the establishment of a general subject status should deceive us as to the fact that societies of the *ancien régime* were divided in two: the world of the privileged and that of the others. There were, of course, many gradations. But ruling power and cultural hegemony belonged to the aristocracy. (I use this concept deliberately, meaning not only the nobility whose status was legally fixed.)

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<sup>28</sup> Brunner 1967, p. 123.

<sup>29</sup> Hufton 1980, pp. 11 ff.

Throughout the *ancien régime*, some individuals and entire corporations had to abandon earlier privileges, whilst others managed to acquire new privileges. Privileges were inherited, appropriated *de facto*, or purchased. This was also, in a certain sense, private participation in centralised power. Just as centralised power had to be realised in practice, so privileges did not so much provide a ruling position or a guarantee of appropriation, so much as the possibility of realising rule and appropriation in the most favourable conditions. With trading and guild privileges, this character is quite evident. But even the favourable tax situation of the nobility, for example, could not guarantee a leading material position, but only favour them in a particular fashion. The more that the social requirement asserted itself, in the course of development of the *ancien régime*, to the effect that social position as defined by estate membership had to obtain social validity by the specific practice of rule, the clearer did the fortuitous character of privileges become. Their effect was increasingly subject to the conditions of competition for wealth and esteem – though in no way exclusively so. This development was further accelerated by the fact that privileges themselves were an article of trade. Office power, tax advantages and noble titles could be acquired for money, just as could the seigneurial powers of appropriation and justice that still persisted. Access to the market for certain privileges, however, in particular the market for office power, remained socially restricted. The ruling estates successfully defended against the social validity of abstract wealth the social privileging of appropriation from land, office and marriage.

Access to landownership and office power, however, became easier in the course of the *ancien régime*: by the expansion of centralised office power and the dissolution of manors and *seigneuries*. The dissolution of seigneurial power brought about an expansion of the market for land – quite irrespective of whether it reinforced the property rights of existing landlords or of peasant claims. Both small proprietors and great landlords could find themselves forced by debt or the need for money to give up part of their land or their entire holding. This made possible a process of concentration, but also the access of formerly non-privileged families to the material preconditions for admission to the trade in privileges. As social status became tied to market structures, the chances of social advance rose for both families with estate privilege and those formerly non-privileged. Differences between estate position and material position led under the *ancien régime* to crises of generalised



power. They also led to both rulers and advancing social strata being linked by common behavioural motivations.

This new state of affairs was given expression by contemporaries in a new concept: the concept of interest. The present inflationary use of the term conceals the notion's historical character. In actual fact, there were structural preconditions for the conception of interest, which only developed under the *ancien régime*. (The term itself is older; in the Middle Ages it was already used in the still prevailing economic sense.) Before a concept of behavioural motivation could arise that was not specific to any estate, there first had to be a certain generalisation of living conditions. Since this arose from the linkage between social position sanctioned by power and market structures, an orientation to material goals soon established itself as its most important content. If people were seen as beings guided by interest, which was increasingly the case from the seventeenth century, human behaviour became calculable within certain limits. Until that time, no other guarantee of calculable behaviour could be conceived of than a common religious belief. The vehement persecution of those with a different belief was inspired not least because their neighbours and their lords saw them as unreliable. Albert O. Hirschman<sup>30</sup> cites expressions that indicate how the invention of interest facilitated the move to religious tolerance. This connection presumably also existed the other way round, i.e. the indispensable experiences in common life with members of a different confession facilitated the rise of the conception of interest. For one's own behavioural motivation and that of others to be conceived of as interest presupposes that individuals perceive themselves as individuals, impelled to consider their individual circumstances as it were from outside and in a position to actually do so. The constitution of interest, behavioural motivations that people share with others and pursue against others, presupposes a certain capacity of abstraction. Interests are an interpretation of one's own circumstances in which certain concrete elements such as emotions or state of health remain out of the equation.<sup>31</sup> If interests are understood only as a kind of individual reflex to social conditions, the category has no analytical use. Interests always arise in a relationship of agreement – or disagreement –

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<sup>30</sup> Hirschman 1980, pp. 51–75.

<sup>31</sup> Neuendorff 1973, p. 13, stresses that the bearers of interests treat each other as strangers.

with the dominant values. In other words, the use of the concept of interest in scholarly analysis is tied up with particular historical assumptions: actual generalisation of conditions of life, and discourses in which such generalisation is thematised. Both things were the case under the *ancien régime*. The concept of interest and its contents developed in accordance with the actual structure of generalisation. The conception reflected the increasing involvement of social position in market structures, and the contents of interests were oriented above all to generalised power. The demand was made on this power either to facilitate material and social advance, or to alleviate the effect of the market. Discourse about interests arose above all as discourse about the (estate-based) practice of generalised rule.

This early history of interest has two further structural features. Although the theoretical notion of interest applies to individuals, in practice interest is pursued *en famille*. This ascribed the family, in those social strata where the assertion of the notion of interest demanded a cultural revolution, the additional function of legitimising these behavioural motivations in relation to the behavioural ideal of honour. When the concept of interest appeared, it described – as Hirschman has shown<sup>32</sup> – an opposition to untamed passion. A cool head and the notion of interest both made their appearance at the same historical moment. And at a time, moreover, when the feudal form of war had not only lost military effectiveness, but also its cultural hegemony. At first it was only necessary for princes to pursue legitimate and necessary interests – i.e. not to be driven by passion. The social triumph of the conception only followed the relativising of possession of privilege by the effect of market structures, in the context of the condensation of generalised rule. The second structural feature of the constitution of interests under the *ancien régime* was an orientation to rights. Since politics was not yet oriented to the regulation of social relations, but rather to ascribing rights to particular individuals or groups, the contents of interests also arose from this specific historical connection.

In the course of the *ancien régime*, an additional content of the notion of interest developed. Once people ventured to think that history could be made, there arose a discourse, however socially limited, over interests whose commonality

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<sup>32</sup> Hirschman 1980.

rose above the partiality of the interests of particular social groups. This also gave rise to a claim for rights: the natural rights of man.

### 3. Bourgeois state

#### *Bourgeois revolution as analytical category*

In recent decades, the concept of bourgeois revolution has acquired the function of dividing the flock of historians into supporters and opponents of the Marxist interpretation of history. This has not been good for it. If I persist in using the concept here, it is to make clear what it should *not* express. (It is immaterial in the present connection whether the views to be excluded are actually represented by Marxists, or only very commonly attributed to them.)

Above all else, this is the equation of 'bourgeois revolutions' with the accomplishment of a capitalist economic order, which, for Marxist interpretations, is constitutive of such revolutions. In the present study, however, I argue that capitalist forms of production and distribution could only become dominant *after* the personal character of power had been (largely) abolished, so that the development of a separate economic sphere became possible. Orthodox Marxism maintains the opposite: the change in the mode of production is supposed to burst asunder the previous forms of power.

As a structural category, moreover, bourgeois revolution does not refer here to a particular *form* of historical change. Whether conflicts leading to a change in power culminated in open civil war and events that contemporaries already viewed as the start of a whole new epoch, or whether they led to successive rounds of reform until personal power was eventually eliminated, does not affect bourgeois revolution as a structural category. Finally, the concept also says nothing about the groups who waged the conflicts that led to personal power being regulated, limited and abolished. The central content of the concept is, rather, the thesis that the transition from *ancien régime* to bourgeois society demanded the expropriation of personal possession of power.

If, despite all these qualifications I retain the analytical concept of 'bourgeois revolution', the reason is simple: it offers the great advantage of rejecting all theoretical concepts that analyse the modern state as the result of gradual change: the outcome of increasing strength and rationalisation, accompanied

by long-run processes of cultural transformation. As against this, I persist in the view that the emergence of a separate sphere of the 'state' only happened with the depersonalising of ruling power, and that such processes effected a world-historical breach in the development of forms and practices of power. This breach has been rightly described as a revolution. By characterising it as 'bourgeois', its specific world-historical preconditions are addressed. They mark the constitution and development of the first historical forms of modern state power. Naturally, these developments took different forms in each country (the major theme of the present book), since concrete interests, demands and modes of behaviour are always marked by concrete relations of power and discourses, and yet we need not follow Reinhard Bendix,<sup>33</sup> who sees only these special national roads. For in contrast with other processes of constitution of modern state power, for example in postcolonial societies or societies that were ruled by a supposedly socialist one-party system, the structural significance of the common historical preconditions of bourgeois state power is very clear.

*Structural preconditions for bourgeois revolution*

The preconditions for bourgeois revolution are crises of rule in societies of the *ancien-régime* structural type. The concrete causes of their eruption are not in question here. 'Revisionist' historians typically argue that these are always contingent: provoked by strategies that could have been quite different, accelerated by harvest failures and/or military defeats. But such occasions play their part in conditions in which general features can be discerned, for all the differences between one instance of power and another. Central to these are the economic and social limits of the integrative ability of the system of rule of the *ancien-régime* type. For under the *ancien régime*, if in very varying degrees, social positions and forms of appropriation are, to a large extent, laid down in law, i.e. defined by power, and sanctioned with the means of generalised rule. This applies to immediate participation in the appropriation competences of the crown by way of office power, as well as to privileges that offer favourable prospects for commercial profit, to the limited admission to guilds and even to the perpetuation of apparently very ancient forms of landownership

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<sup>33</sup> Bendix 1978.

and juridical power. In these conditions, family strategies of social advance became competitive strategies for participation in generalised power. So long (and in so far) as material participation in generalised power could be limited, the strategies of new families and social groups meant a change in the competition between factions of nobles and clientele groups that was quite characteristic of *ancien-régime* societies. But a constant increase in these strategies of advance sharpens the competition for social positions sanctioned by power and for material benefit from generalised power. The possibilities of integration are set by the limited productivity of an overwhelmingly agricultural society, as well as by steadily rising costs of armed appropriation. New officials reduce the (material) importance of those already in place, new trading privileges curtail the prospects of profit of the older ones. If appropriation by way of generalised power cannot be expanded, this not only makes it harder to satisfy the competition between clientele groups, but also the possibilities of advance in the existing social hierarchies.

The possession of legal rights was contested. Whether it was a question of the regulation of labour relations, farm leases or appropriation by way of office power and taxation, the possessors of different rights were always in mutual confrontation. Since generalised power sanctioned the differences in rights, all these relationships were integrated into the practice of generalised power. These rights varied greatly from one province to another, from town to town, if not from village to village and even from one landed estate to the next. Yet when it finally came to theoretical and practical criticism of the forms of rule of the *ancien régime*, the revolutionising of established conditions did not need to be waged separately against every local authority and corporation. For, by the end of the *ancien régime*, there existed between generalised princely and local rule not just a proclaimed connection but a very real one. Only to the extent that generalised rule was integrated could such various privileges as the right to keep pigeons, to attend sessions of the Upper House, to equip ships for the import of tea or spices, to inherit the office of judge or to march at the head of a festive procession have a general character; only thus were these something more than so many particular vexations, and could be condemned in the course of bourgeois revolutions with the slogans of 'feudalism' or 'Old Corruption'. It was not a question of unification, or even the assertion of the 'absolute' rule of a sovereign, but rather of the integration of many individual forms of rule into a connection of legally justified and commercialised ruling positions.

In the course of the *ancien régime*, and especially clearly after 1648, this context of generalised rule took on territorial form. Indeed, bourgeois revolutions would not have been possible without the (more or less precise) territorial demarcation of realms. The demand to establish a republic related to a circumscribed sphere of ruling power, and still does so today.

The structural *possibility* of bourgeois revolution led on to the concrete historical process of structural change, wherever and whenever public discourses developed that challenged the legitimacy of established rule and, in this way, formulated the claim of 'the people' to decide on this legitimacy from now on, and thus to become the subject of politics. It is the contents and forms of these public spheres, whether those of a literary public, of organised or spontaneous forms of verbal communication, by which the revolutionary transformation of power acquires its 'bourgeois' character. This content, too, was the outcome of the history of *ancien-régime* societies, and generally arose in direct polemic with established discourses and forms of rule. Natural rights, the Enlightenment, criticism of the church and processes of individualisation, were as much results of the earlier form of rule as the demands for commercial freedom, the abolition of monopolies and the expropriation of personal rule.

The conditions under which such criticism developed varied from one country to another, and the forms in which it triumphed did so likewise. Yet there are common structural features to this revolutionary process. To pick out just one of these here: a precondition for the revolutionising of the *ancien régime* into bourgeois society was a specific change in the conception of interests.

Whereas – as already discussed above (Part Five, 2) – interests under the *ancien régime* were tied to corporate and especially family structures (more exactly, to the household and its head), the critique of the system of privileges meant that in future individuals had to be considered as the bearers of interests. Even if origin, family ties and even familial reproduction strategies continued to remain relevant, the behavioural principle of interest lost its corporate and family character in the process of bourgeois revolution. The public spheres that made themselves into a legitimising instance of politics were composed of individuals, even if relatives, friends and neighbours might be active in them together.

In the practice of a public critique of the *ancien régime*, people experienced themselves as individuals, in so far as they demanded the life-form of public freedom together with others. Only this social practice made the structural

possibility of bourgeois revolution into a historical reality. In the process of this revolution, no matter whether it was compressed in time or took many years to complete, individuality arose as a mode of public existence. This led to the generalisation of those cultural forms that, according to Richard Sennett, developed for social intercourse among strangers,<sup>34</sup> on the basis of the political public sphere. It is not – or not only – a question of a change in theoretical conceptions, but of new forms of social life.

### *The results of bourgeois revolutions*

Just as 'bourgeois revolutions' posited their goals out of a critique of the conditions of rule of the *ancien régime*, and did not become 'bourgeois' simply because they were waged by that particular class, so the results of such revolutions were 'bourgeois' above all in their difference from preceding forms and practices of generalised personal ruling power.

All bourgeois revolutions involved comprehensive processes of expropriation. The owners and possessors of rulership rights, the princes at their head, were deprived of their former legitimate competences. Personal rule developed into public – impersonal – power. The sovereignty that had already been established both internally and externally became the sovereignty of the people. Bourgeois revolutions destroyed the dynastic basis of sovereignty, which the contracting parties of the Peace of Westphalia had still taken for granted. It was only then, and not already in 1648, that 'the people' became the key point of reference for sovereignty. And thus it was also not in 1648, but only in the course of bourgeois revolutions, that the concept of state sovereignty arose that has since been the foundation of international law.<sup>35</sup>

In all bourgeois states, the scope of state power came to be limited by law, and the form and manner in which its deployment could be decided was regulated by constitutions. So that 'the people' could use the state power as it willed, bourgeois revolutions changed officials in a context of generalised personal rule into instruments of a public instance. Many institutions were abolished, others newly established, others again maintained but now made into genuine instruments of state power. Only with the expropriation of per-

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<sup>34</sup> Sennett 1977.

<sup>35</sup> Teschke 2003; and for an example of the prevailing opinion Mairé 1997.

sonal rule could public administration, the police and the military finally be constructed as state 'apparatuses'. Some organs of representation, administrative positions or officials representing 'state power' might preserve their description and a considerable part of their personnel, but after the revolutionising of the *ancien régime* they were no longer the same: not just the modernised perpetuation of earlier institutions, but the expression of a whole new form of statehood. This transformation gave governments a hitherto unknown might. Even in modern national states, the personnel of the state apparatus is involved in the specification of policies, and every government thus needs to secure their cooperation. But whereas, under the *ancien régime*, parts of the generalised power were the possession of private individuals, in bourgeois societies they are completely public. Individual leaders, therefore, in so far as they manage in one way or another to successfully appeal to the will of the people, can thus concentrate more governing power than was ever possible for an 'absolute' prince.

If the abolition of personal rule meant the opening up of state power, it meant, at the same time, the setting free of the market. Henceforth – this, at least, was the intention of legal regulations – the sphere of politics would be about power and the use of the public power for political ends, while the economic sphere would be about incomes and profits. To put it another way: rule was to be reduced to politics, state power was no longer to be used for the private enrichment of those who executed it. Their incomes were to be reduced to the officially decreed levels; anything above this was corruption. The analytical concept of a separation of politics and economics means nothing more than this – but also nothing less. This says nothing about the content of politics, and especially not about the extent of state regulation of the economic process. The argument is not that of a functional separation, but rather a constitution of distinct spheres in which political power is the object of competition just as is appropriation.

The way that the goals of bourgeois revolutions arose from the logic of the critique of the *ancien régime* became apparent wherever women, slaves, oppressed and persecuted people in conquered territories, members of non-Christian religions – sometimes even of a Christian denomination that was not the dominant one in the country in question – not to mention the poorest inhabitants, sought to make use of those natural rights that had been proclaimed in the bourgeois revolutions against the previously existing



legitimisations of power. All of these were refused admission to the 'sovereign people'. In a certain sense, they were all treated as savages who could not (yet) claim the status of citizen and the rights that went with this. Several writers acknowledged this fundamental contradiction that accompanied the constitution of bourgeois state power. Thomas Jefferson, for example, could find no justification for the 'peculiar institution' of the slave economy in the United States. Immanuel Kant pointed out that 'the entire fair sex' did not make any public use of its reason, being prevented from doing so by its 'guardians'.

If we approach the contradiction between the justification of bourgeois revolutions and their political results with the instruments for analysing societies of the *ancien-régime* type, the differentiation between citizens and others appears as the establishment of a collective privilege, the privilege of participation in debates and decisions over public matters. Just like privileges under the *ancien régime*, this privilege was also, in many respects, secured by law – in electoral legislation, in the rule of husbands over their wives, in the legal fixing of slave status and in the rule over 'natives' that was taken for granted. Looked at in this way, bourgeois revolutions abolished the many different privileges of *ancien-régime* societies only to put in their place the collective privilege of citizens.

All those who enjoyed this privilege were male. Though this sufficiently shows how marriage and family law continued the traditions of patriarchal rule, at the same time as this was delegitimised,<sup>36</sup> the exclusion of women from the society of citizens did not just mean the perpetuation of an earlier form of rule. For only with the above-mentioned emancipation of 'interest' from the earlier world of privileges and thus families, did the historical possibility arise of a systematic sex-specific individualisation. In so far as men claimed the public mode of existence of individuality as a sex-specific privilege, in this way bringing the mental structures of a hereditary nobility into the new world, they shunted female individuality into the private sphere.

To the extent that revolutionary publics temporarily defined the 'nation' in a more comprehensive way, the political privileging of men had to be conquered anew, whilst elsewhere the social and sex-specific limitation of the 'political nation' was successfully defended for a long period. But, since bour-

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<sup>36</sup> Vogel 1995, p. 138.

geois revolutions were conducted everywhere under the banner of equality, freedom, and the natural rights of all, the subsequent establishment of exclusion strategies did not appear in a good light. The historical constitution of bourgeois state power thus became the point of departure for all those who have since demanded that its principles should become reality.

*Bourgeois revolutions, the capitalist mode of production, and class relations*

All constitutions of bourgeois states guarantee the protection of private property. Wherever workers have had to take their labour-power to market in large numbers and offer it for sale as a commodity, this protection of private property has also been made into a constitutional guarantee for the legal preconditions of a capitalist mode of production. In capitalistically producing societies, workers – not all, but as a general rule the majority of them – enjoy the personal freedom to make labour contracts. Those who market their labour-power in this way do not sell it for life, but voluntarily contract that for a certain time they will put it at the disposal of an owner of means of production (of whatever kind). During this working time, the labour-power, and thus the person to whom it pertains, is then under the command of the other contracting party. To put it another way: the everyday life of the worker is regulated by power. Yet this relationship, even if it regulates the expressions of life of many thousands in the smallest detail, is seen in capitalist society not as a form of rule, but as the use of private law in the free disposal of property. Because the state equally protects the free disposal of any kind of private property, it sanctions the fundamental difference in the conditions of life between those who possess capital goods and those who have only their labour-power to take to market.

It is the acknowledged result of a discussion conducted internationally among Marxists in the 1960s and 70s about the social form of capitalist state power, that the ‘class character’ of this does not consist – or at least, not principally – in the use of state force against (protesting) workers, in overt class justice and other direct forms of oppression and disadvantage, but rather in the neutrality of state power vis-à-vis any kind of private property. In this way, the characterisation of bourgeois state power as the ‘executive of the bourgeois class as a whole’, as Marx and Engels wrote in the *Communist Manifesto*, while very enlightening historically, was theoretically criticised as insufficient.

That the protection of every kind of private property was already made a constitutional principle in bourgeois states before capitalist labour relations had become dominant in the majority of these, does not prove for example that the groups who struggled to establish this form of state already had capitalism in mind. The explanation is, rather, that the principle that the state should respect property, and that encroachments on the private power of disposal over property should only be decided by the legitimised instances of 'the people', was a consequence of the critique of generalised ruling power under the *ancien régime*.

Social relations in which the labour of many was exploited by lords who were in a position to exert material and direct power existed from time immemorial. Class societies, however, were created only by bourgeois revolutions. When bourgeois revolutions abolished the direct securing by power of estate differences, class relations were set free. This was also acknowledged in the discourse of the time. At the turn of the eighteenth century, the term 'class' came into frequent use in such tropes as 'the middle class(es)' in England, or the 'dangerous classes' in many societies that had experienced bourgeois revolutions. This discourse arose on the one hand from the manner of classification that had been taken over from the natural sciences in the nineteenth century and applied to society, but also from the critique of the significance of classing people by birth that had previously been sanctioned by power.

It was only with the development of workers' organisations that a new meaning of 'classes' arose, along with a new social basis. For, only to the extent that workers became conscious that their material position across the country was determined by their working conditions, only when they raised common demands directed at the state, did classes rise at least temporarily above competition and difference of interest and become political unities of action. This was possible only through the factory organisation which brought together a large number of workers, through the formation of national markets, the improvement of transport and better access to information – in other words, a public discourse about the commonality of different conditions of life that rose above regional barriers. Only in the context of such public discourse could local struggles with entrepreneurs be conceived as the expression of general class antagonisms. But, even in these struggles, the historical preconditions of bourgeois societies often found expression. Everywhere the breakthrough of capitalist relations was linked with processes of individuali-

sation. When workers joined together to demand rights, they certainly developed conceptions of a new commonality, yet these conceptions also shared the emotion that had inspired the bearing groups of bourgeois revolutions. For the struggle against the *ancien régime* was waged not just against private possession of power competences, not just against privileges and inherited forms of exploitation; it was also a question of contesting the priority of the nobility in terms of honour, upholding one's pride before princely thrones, and generalising the privilege of personal dignity. In societies that arose out of the theoretical and practical criticism of the *ancien régime*, class consciousness developed not only as a struggle with the material conditions of life. The workers' organisations demanded political participation not just – and sometimes not even mainly – in order to restrict private power of disposal over labour. This was also designed to help break the new social monopoly on individual dignity that had been appropriated after the revolution by those who were deemed to be citizens.

*From the 'citizen state' to the national capitalist intervention state*

Bourgeois revolutions were fought out in territorial states in which political unity had been established by force and law. In the struggle against personal power, the demand was raised that society should be able to make its own decisions and determine its own goals. By the transformation of the instruments of personal rule into instruments of a public power, society also obtained the right to decide on the employment of these: in public debate and in the specific institutions where the will of the people was represented and confirmed. In principle this was a completely open programme. Scarcely anyone formulated it more clearly than Thomas Jefferson, when he maintained that every generation should have the right to revise the constitution. 'I hold', he wrote on 30 January 1787, 'that a little rebellion now and then is a good thing, and as necessary in the political world as storms in the physical'.<sup>37</sup> As president, however, Jefferson himself followed the general programme of successful revolutionaries: the stabilisation of what had been achieved.

The history of the state power established by bourgeois revolutions can be depicted as the history of the various methods and metaphors by which the

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<sup>37</sup> Cited after Boyd 1950, Volume 11, p. 92.

contradiction between democracy and capitalism has been elaborated. This means the history of political practice, but also the development of theoretical conceptions that guide such practice. Neither of these can be discussed in any detail here. We will however just refer to Auguste Comte who, seeing himself as the founder of sociology, wrote into the programme of the new science that its task had to be that of bringing into harmony progress and order.<sup>38</sup> For there was something else that all bourgeois societies had to achieve: to restrain not only the potential openness of the political decision-making process, but also the potential political explosive force that resulted from a rapid change in social relations.

In all the states that emerged from bourgeois revolutions, the application of state power was regulated and restricted by constitutions and laws, but, at the same time, state power was constituted as an instrument of political unity and stability. This instrument was supposedly to be used only according to constitutional provisions, if political unity and the foundations of society were threatened. This was and still remains a question of interpretation. The degree to which its room for manoeuvre can be extended is shown by the justification of the state terrorism that has been practised from time to time in several of these states.

But state compulsion was never the only means of establishing and maintaining political unity and stability in those states that arose out of bourgeois revolutions. Specific methods and metaphors of stabilisation came into use, both successively and simultaneously.

The first of these was the transformation of public state power into a state power of the *citizens*. In this historical period, bourgeois state power meant a 'citizen state'. In these new bourgeois states, most inhabitants were excluded from participating in the decisions of this new sovereign, 'the people'. This exclusion was effected not just by electoral law, but also by penal legislation and police regulations, which criminalised spontaneous public manifestations as revolts. In most bourgeois states, many peasants, all workers, women, Jews and dissenters were still kept in a subordinate position. Slaves did not even enjoy this privilege, being made into material property, different from animals only in that their murder was at least formally a crime.

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<sup>38</sup> Comte 1903, part 18.

It was only in the protection of private property that state power in the citizen state was constituted as socially neutral, and precisely this way is it a guarantor of capitalist relations of production. As regards the rights of participation of the people, these citizen states were anything other than neutral. The narrow social basis on which state existence rested at this time was very often terrifyingly visible. All the more so, when political élites developed everywhere whose special influence on the centres of state power raised them even further above the generality of state citizens with full civic rights. These élites contained many members of the former ruling estates. Citizens with noble names, who, in many cases, had helped to make the bourgeois revolutions, used their high levels of material resources, status and connections to ensure that they still belonged to the country's political rulers under the new conditions.<sup>39</sup>

The exclusion of many inhabitants from full citizens' rights had a double effect. It provoked criticism up to and including revolutionary struggle, thus threatening political and social stability, while at the same time it recreated political unity time and again. This grew out of the expectations of political participation. Since the politically excluded demanded the right of political participation, appealing to the rights and principles that the bearing groups of bourgeois revolutions had maintained were 'natural', self-evident 'common sense', they confirmed, at the same time, the foundations of bourgeois state power.

Every particular exclusion from the political rights of 'all' citizens was long defended, often by means of state power. New justifications were proposed from time to time for these exclusion strategies. The most important of these was the alleged racial inferiority of slaves and those oppressed in the colonies, which became popular in the nineteenth century and was still used after the abolition of slavery to continue their exclusion from the 'political nation'. Biological arguments were increasingly used also to perpetuate the exclusion of women from the political public sphere, all the more so as the business acumen of individual women could not fail to be recognised. Women could even become property owners, and many would have been able in due course to meet the wealth qualification for active suffrage. But, in relation to the political public sphere, they had to be kept in subjection by the society of citizens just as married women individually were by their husbands. Whilst the

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<sup>39</sup> Mosse 1995, pp. 9 ff.

exclusion of women and freed slaves could long be defended by reference to 'nature', other barriers between citizens and subjects were gradually shaken and finally cast off. It has recently been a subject of discussion among political scientists at what point a constitution can be described as 'democratic'. Whether it is enough that 10 per cent of the adult population enjoy the suffrage,<sup>40</sup> or whether 30 per cent need to have the right to vote.<sup>41</sup> Chartists, suffragettes, those active in the movements for Jewish emancipation, would all have declared such views to be hare-brained nonsense, and forcefully maintained their demands for universal suffrage, the admission of opposition parties, the responsibility of ministers to parliament and a free press. Eventually they succeeded, in some bourgeois states sooner than in others, in Switzerland not completely even today. At the same time they achieved the legalisation of workers' organisations, both trade unions and parties.

Always and everywhere, this success brought with it disappointment. This resulted from the basic structure of bourgeois statehood: the liberation of the market. This is what made capitalism possible, and thus a new basis for maintaining fundamental inequality, in constant contradiction to the equality of rights of citizens. From its very beginning, however, capitalism also created new opportunities. Once agricultural production was reorganised on capitalist lines, and no longer oriented chiefly to peasant subsistence, a rise in productivity became possible. Though this did not completely abolish the existential threat of starvation, which had previously been endemic – as many inhabitants of Ireland would painfully experience in the mid-nineteenth century –, in the core territories of capitalist production this was considerably reduced. Time and again, however, it also became clear that, under capitalism, hail and drought had been replaced by economic crisis. This threat could not be countered by political participation. As Karl Polanyi convincingly pointed out,<sup>42</sup> in bourgeois states, it was not seen as the task of the state to do away with these. Certainly, state power was used to perform functions that were very important economically: the organisation and equipment of the army and navy, and the deployment of both forces to support economic expansion; the creation and organisation of infrastructures, the organisation of educa-

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<sup>40</sup> Singer and Small, cited after Czempel 1995, p. 9.

<sup>41</sup> Doyle 1986, pp. 1151 ff.

<sup>42</sup> Polanyi 1957, pp. 68–76 & *passim*.

tion and vocational training, the promotion and diffusion of knowledge of new production methods, the conquest and administration of people and resources in the colonies. But, as far as the mode of operation of competition in the national context is concerned, this remained a politically taboo subject in the bourgeois states. The state guaranteed freedom of contract, and with it also the freedom of the labour contract (rarely formalised in the early period). In this way, it sanctioned the preconditions for reproducing the underlying social inequalities 'automatically'.

But these inequalities provoked outrage, disturbance, demands and the organisation of common interests. All the more so when increased industrial production created a growing need for labour (in the towns), leading to greater social mobility and the dissolution of the former locally-tied life of the majority of the working poor. The population was set in motion, and society in disorder. Industrialisation not only shattered traditional practices of solidarity in the social and spatial neighbourhood, but also the traditional pattern of local social control. In the face of this situation, the stabilisation of order by means of exclusion from political participation proved as unsuccessful as the former deployment of state power that had time and again been considered necessary.

Two new patterns of stabilisation now became dominant: the production of the state-nation and the formation of the 'social and intervention state'. Taken together, this led to the rise of the national capitalist intervention-state, which, in the long run, historically superseded the citizen-state.

Although in Europe foreigners had been already ascribed a 'nation' in the later Middle Ages, the close connection between territorial state and nation only became general in the second half of the nineteenth century. In a social perspective – following Ernest Gellner<sup>43</sup> – this development can be understood as the offer of a new allegiance to a society individualised and atomised by industrialisation, while in connection with the development of state power the 'nation' metaphor promised a political unity that could no longer be sufficiently stabilised by general law in a territorial state. The 'invented traditions'<sup>44</sup> for the history of such a nation, whether appealing to ethnic, cultural or political connections, are beyond our remit here, as is the danger of

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<sup>43</sup> Gellner 1983.

<sup>44</sup> Hobsbawm and Ranger (eds.) 1981, *passim*.



political destabilisation that was bound up with the success of the 'nation-state' concept, and still is so, since once nation and territorial state are viewed as a unity, demands for political self-determination of a population group, no matter how this is defined, are consequently directed at autonomous statehood. What is important in the present connection is that the concept of nation not only supplemented the integrative effect of promises of political participation, but, in a certain fashion, was even able to defuse these. The integration effect of the 'nation' metaphor might be strengthened by the extension of the suffrage, but, on the other hand, this also made it possible to demand its members' readiness to die for their country, even before those thus addressed had been granted full civil rights.<sup>45</sup>

The 'nation' is not a social group, but an organisation of political unity.<sup>46</sup> In recent years, investigation of the 'nation form'<sup>47</sup> has broadly confirmed that neither linguistic unity nor other inherited similarities can be seen as valid origins of nations. Yet, not only does the 'nation' concept allow political unity to be maintained by way of propaganda and literary production, and expressed in symbols and festivals; the 'national context' is actually produced by state activity, albeit often only long after having been originally proclaimed.<sup>48</sup> A national context of this kind arose, for example, through the regulation of everyday activities by way of laws and regulations, in which connection universal education and military service acquired particular significance, as well as by the promotion of infrastructure that facilitated national trade and communication.

No state activity, however, contributed more to the institutionalisation of the 'nation' than the development of the social state. This took place in nationally varying forms and at different points in time, but everywhere the traditional forms of provision for the poor were replaced by new forms of state provision of material subsistence. The social state was not based on an idea of general welfare, even if those who demanded it had this in mind; it was based, rather, on the fear of political unrest. In place of solidarity in the social neighbourhood, which could scarcely function any longer in the

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<sup>45</sup> Luhmann 1997, Volume 2, p. 1053.

<sup>46</sup> Bielefeld 2003, p. 28.

<sup>47</sup> Balibar 1990, Chapter 5.

<sup>48</sup> Cf. Weber 1979.

period of industrialisation, the state organised solidarity among strangers.<sup>49</sup> This new model of inclusion, justice and control was especially pronounced in states where the right to existential security could be effected in the form of compulsory membership in social insurance funds. But, even in social states that were organised and financed differently from this, the state correction of the distributive results of the market was and still is bound up with methods of control designed to ensure that the supply of labour on the market is maintained at a sufficient level. Initially, the material benefits were very limited. But, from the very beginning, this social right meant a new form of constitution of political unity. The development of the social state based the concept of nation in material interests, the interests of those who had to provide the financial means, and the interests of those who had claims on these. In this way, the social state also promoted a tendency to demarcation, i.e. nationalism.

In the course of time, the instruments of state intervention in market affairs were steadily extended. The high point of this development was reached in the practice of monetary policy, fiscal policy, employment policy and the regulation of capital movements, which became dominant in the United States after the world economic crisis of the late 1920s, and in other states after the Second World War. State activity of this kind gave the appearance that the free operation of the market no longer obtained. The economy could instead be directed by regulation. Subsequent political acceptance of this has been far more dependent on the economic conjuncture than on democratic procedure. Political unity, however, has not been endangered by the rejection of a particular government. For it has since come to be based on a very far-reaching modelling of society by the state. In the course of development of bourgeois states, the relationship of society and state that was aimed at by bourgeois revolutions – and was subsequently laid down in the constitutions of bourgeois states – has, in a certain sense, been reversed. The legitimisation of the state is based constitutionally on the self-determination of the state's people, but, in historical reality, this sovereign has, in a sense, come to be a product of the state's own activity. Ever more spheres of life, even the reproduction of life itself, are today regulated and administered by the state. State activity – Michel Foucault spoke of 'governmentality' – has anchored the stability of

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<sup>49</sup> Ewald 1993, *passim*.

the political system in the life activities of the citizens. These developments set relatively narrow limits to the openness of the political process in states with democratic constitutions. They also reduce, in this way, the demand for legitimacy. It is remarkable that the procedures of democratic legitimisation no longer play any particular role in a theory of the 'political system' that has become particularly prominent.<sup>50</sup>

Yet despite all this, the contradiction between fundamental inequality and democracy has not been abolished. Two fundamental elements of bourgeois statehood, moreover, continue to exist: compulsion and additional legitimisation. Compulsion replaces the unreliability of political inclusion. For no system of governmentality, no matter how differentiated, can prevent capitalism from time and again creating 'surplus' people, who are of no economic use and therefore pressed to the margin of society. No more can any such system prevent the promise of bourgeois revolutions from remaining alive, the expectation of a democracy that is not reduced to mere formality, the expectation that it must be possible in future to argue about reasonable goals and put these into practice. Since bourgeois state power does not and cannot let this promise come true, it regularly needs additional legitimisation. In the second half of the twentieth century, this was supplied in a double sense by the conflict between the two great political blocs. So long as the Soviet Union remained standing, it was used as an enemy against which the existing order had to be defended. For many who were dissatisfied with this order, this was also a constant devalorisation of the hoped-for possibility of a better social order.

The collapse of the Soviet Union brought a further precondition for the accelerated globalisation of capitalism at the end of the century. In the states that have developed out of bourgeois states, a new figure of legitimisation has arisen: the pressure of competitiveness. This has not reversed the liberation of the market from power, and though the free disposal of private property remains the basis of market activity, state activity is now expected to support the particular compulsion of the market. Legitimisation of the existing order thus merges into the functional principle of the market, i.e. mere competition. This is very threadbare.

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<sup>50</sup> Easton 1965.

*Bourgeois and other capitalist states*

The first bourgeois revolutions set in motion a world history of national sovereignty. In 1791, the slaves of Santo Domingo demanded the rights of man, and launched a struggle for their freedom and political independence from France. In 1804, they founded the state of Haiti, thereby claiming sovereignty and the recognition of all other sovereign states. Through struggles for independence and autonomy, the political form of 'national sovereignty' has since spread across the whole world. With the exceptions of Antarctica, the Spratley and Paracels archipelago, and a tiny zone between Saudi Arabia, Kuwait and Iraq, every speck on the map belongs to one national state or another. It is universally supposed today that state sovereignty is the property of a sovereign people, located in a particular territory. Independent of the particular form of government, therefore, the conception of a public power and the social institution of public office, i.e. achievements of the bourgeois revolution, have been globalised. Not only this. By conquest (starting with the Napoleonic wars), by colonisation, and by the orientation of ruling élites to successful prototypes, systems of law, structures of administration, education systems and forms of hegemonic capitalist culture have been diffused. With the dissolution of the Soviet Union and the almost worldwide spread of capitalist production and market relations, differences in the formal organisation of statehood between capitalistically producing societies have become smaller. Yet fundamental differences still remain – despite the change in the nature of the state even in those states that developed out of bourgeois revolutions. Much as the particular national development of bourgeois states differed from one another, which suggests a theory that rejects generalisation in favour of a large number of different national roads, it becomes clear, in comparison with modern statehood that has been differently established in capitalistically producing societies, that the origin in theoretical and practical criticism of the *ancien régime* that is common to bourgeois states produced long-enduring conditions for further political struggles, modes of stabilisation and concepts of legitimisation of the existing order. In all capitalistically producing societies, there have been more-or-less pronounced processes of individualisation, but, under the *ancien régime*, individuality arose not from the destruction of social connections, rather from the struggle for a legally established room for manoeuvre that could be used to give sense to one's own life. In these societies, there arose the concept and practice of a constitution of

interests, as common goals of people who did not know each other personally. The critique of traditional rule, the critique of church rule and the beginnings of a privatisation of religious practice, all preceded bourgeois revolutions, just as did the Enlightenment and with it the start of the institutionalising of science as an instance of legitimisation. Not all these developments, or the corresponding patterns of socialisation and cultural practices, were adopted along with the institutions, legal systems and administrative organisation that have spread across the world, forcibly and otherwise. The many national capitalist states that exist on the planet today are therefore not more or less well-functioning bourgeois states, they are capitalist states of a different kind. These differences are differently composed, and cannot be discussed in detail here. We may just indicate the fact that in many postcolonial states the market has not been freed from power. The foreign observer sees the political practice of such states as marked by corruption. In actual fact, it is simply that in many ways the state in these countries – just as in Europe under the *ancien régime* – is a mediating instance for private appropriation, and solidarity continues to be almost exclusively restricted to the social neighbourhood. For the states of sub-Saharan Africa, Patrick Chabal and Jean-Pascal Daloz<sup>51</sup> propose to interpret the concrete development of modern statehood not as a 'deviation', but rather a historical development in which the horizontal connection between individualised state citizens has not replaced the traditional vertical connections. In the states that were previously marked by the one-party rule of actually existing socialism, the introduction of free elections and parties has not automatically meant the adoption of the tradition of constitution of interests from the bourgeois states. As a consequence, the personal connections that prevailed under one-party rule still mark the political culture.

Reference to such differences is not intended to ascribe the bourgeois form of public power any special humanitarian quality. The history of this form of state has been accompanied by conquest, oppression and annihilation. It is not a matter of evaluation, but rather the analysis of historically specific pre-conditions for the constitution of social and political practice.

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<sup>51</sup> Chabal and Daloz 1999.

*Bourgeois state power in the age of globalisation*

In the last few decades, processes of accelerated institutionalisation have lent a new impulse to criticism of the equation of modern statehood with its territorial fixation. It is increasingly maintained that the state is not determined by its territorial boundaries, but must rather be understood as a specific legal and social relation. This is, in a certain sense, to rehearse and generalise what authors who sought in the 1970s and early 80s to develop a general theory of the capitalist state stressed time and again: state power under capitalism is a social relation. This is true, and yet not enough, since the historically specific form of 'bourgeois state' is not adequately grasped in this way. If we said that it was not only a legal form and social relation, but also defined territorially, that might not be theoretically sufficient, but at least historically precise. For the territorial circumscription of the *Rechtstaat* was a historical precondition for the development of the political and social struggles in the course of which demands were directed at the state. Even though the struggle against the slave trade and slave system was an international movement, its demands were never pursued internationally, but only in each particular national state in turn. The same goes for the civil and political emancipation of women, for the right to strike, for job security measures and much else besides. The territorially anchored state, along with the nation that was only created by this state, was both the addressee and the arena for demands and struggles for democratisation, and for the limitation by the state of the decision competence of entrepreneurs, who appealed to their free disposal of private property. To this extent, it was also a historical precondition for the social state and for the securing of workers' rights. The territorial frontiers of the *Rechtstaat* thus also defined the political space in which it was possible to contend for a better realisation of the promises of the bourgeois revolutions.

In the last decades, the historical reality of state power has increasingly corresponded to the critical theory of it. Processes of accelerated internationalisation, which have been summed up in the term 'globalisation', have come to shift state sovereignty in part to both supranational and subnational levels. It has also become rather frayed at the edges. These developments certainly go beyond the historical framework of the present analysis, but not of its theoretical framework. For – in the thesis with which I conclude this book – the bourgeois form of modern capitalist state power was bound up with specific conditions of political struggle, conditions that were created in territorially

circumscribed units by bourgeois revolutions, and subsequently inherited in demands for democratisation that referred to this particular historical form of state power.

The partial dissolution of this specific political space cannot be depicted in detail here, yet its most important driving forces and forms can be mentioned. There is first of all the new phase of development of international law and international efforts to find common solutions for common problems. Already during the Second World War, the Atlantic Charter of 1941 obliged the contracting states to renounce the use of military force except in case of self-defence, to recognise the fundamental rights of all people, and to contribute to the promotion of international economic connections by measures of liberalisation. The so-called Westphalian basis of international regulation, in other words, the dependence of its mode of operation on the agreement and equivalence of sovereign national states, was not affected by this. And the same applies also to the foundation of the United Nations.

Even if the decades of confrontation between the two political, economic and military blocs impeded the development of international regulation and marked this in a particular way, some international conventions were still agreed, amounting to a radical rejection of earlier conceptions of nation-state sovereignty. On the basis of the convention against torture of 1984, for example, which was ratified by countries including the United Kingdom and Chile, the former Chilean president Pinochet could be accused in 1998 before a regular English court. The basic principle that a head of state, even after his term of office, embodies his country's sovereignty, was thus in a sense dispatched to the earlier history of international law from which it derived. With the creation of the International Criminal Court in 2002, this development, though still dependent on the agreement of sovereign national states, has been taken further. Since the end of the confrontation between blocs, the number and scope of formal conventions for the resolution of international problems has steadily grown. Yet this shift in decision competence has not been limited to formal treaties. The new practice of transnational regulation also comprises less formalised forms of decision. Typical of these are common institutions, the participation of experts and so-called non-governmental organisations – ranging from environmental organisations to employers' associations – as well as the development of particular routines of pooling information, making joint decisions and orienting national policies to an already established

international practice. The justification of such practice is seen as arising from its efficiency for a policy of international order. At least this is the view of James Rosenau, one of the earliest exponents of 'global governance'.<sup>52</sup> That this efficiency is not self-evident is shown not least by the fact that national governments are not tied into a determined supranational practice solely by means of contractual obligations. For example, US administrations have kept *de facto* to decisions on global environmental protection, though refusing to sign the corresponding conventions.<sup>53</sup> Efficiency moreover is not democracy, and non-governmental organisations do not represent world society.

In some cases, the transfer of certain elements of national sovereignty to supranational institutions has been formalised. This applies both to political associations such as the European Union, but also to membership of the World Trade Organisation, which involves agreement to very far-reaching regulations and procedures for settling disputes. Their negative effects may chiefly fall on developing countries, yet they also restrict the space for economic and social policy of governments in highly industrialised societies.

These restrictions have their effect in a situation whose particular feature has been described as the emergence of 'competitor states'.<sup>54</sup> This refers, on the one hand, to the fact that governments seek to compel their country's workers to competitiveness on the international market by means of specific legal regulations (more exactly, by deregulation). At the same time, the term also implies that national currencies are today exposed to worldwide competition. (The EU is, in this respect, comparable with a national state.) Since the end of the 1944 Bretton Woods agreement for a world currency order with stable exchange rates in 1973, these rates have floated, thus making currencies a possible object of speculation. This development was promoted when one sovereign state after another abolished the restrictions that previously applied to capital movements. This immensely expanded the room for currency speculation, and immensely narrowed the space for national economic policies. We cannot deal here with the question of how this space might be better utilised at the national level, but the fact is that the handover of nation-state sovereignty to the financial market can no longer be reversed by national

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<sup>52</sup> Rosenau 1992, pp. 4–5.

<sup>53</sup> Sands 2005, p. 21.

<sup>54</sup> Hirsch 1998.



decision, but only by a new international regulation. In other words, the relationship between politics and economy has been internationalised to an extent previously unknown in history, and so has the social construction we know as the 'state'.

The development of 'offshore' centres is also part and parcel of this internationalisation of the state. The basis of this lies in the international marketing of the regulative competence of sovereign national states. The term suggests a territorial definition, but, in fact, 'offshore' is a legally defined notion. It means that a sovereign state offers foreign investors the ability to act economically on its territory under legal conditions that differ from those that apply to its own citizens. The offer thus consists in a renunciation of the universality of law in the state territory, and thus a basic pillar of the nation-state form as this was constituted in bourgeois revolutions. The rapid development of 'offshore' centres – used as a base for financial services and industrial production, as well as the registration of ships under flags of convenience – has not only been pursued by particular developing countries and investors, but also by governments of economically and politically leading states. They have both tolerated and promoted this development – on their own territories and those of others – in order to facilitate the successful participation of their national businesses in international competition. In this way they created or tolerated the possibility for investors to act economically outside of national regulations on banking, national provisions on environmental protection, and especially nationally achieved material standards for working conditions. Politically, the development of offshore centres has greatly accelerated the international dynamic of deregulation, while, in terms of state theory, it has made a fiction of the principle that the laws of a particular country apply to its territory.<sup>55</sup> This has side-effects on the prospects for labour struggles, insofar as these demand rights for workers as well as better wages.

In actual fact, the internationalising of the 'state' social relation in recent decades has been pursued above all in one particular field, and one in which it is least visible: the securing of class relations. The legal preconditions for capitalist labour relations, as explained above, consist in the state guarantee of free disposal over private property, which applies to the ownership of labour-power as well as goods, inventions, debts, land and other things.

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<sup>55</sup> Piciotto 1999.

In the course of development of industrial societies, measures of state regulation over the conditions under which labour-power is offered and purchased on the market, as well as of its deployment, have been demanded and obtained, and to some degree again reversed. At the same time, the means of state power have been used to politically stabilise class relations, whether in terms of the development of social security, or the deployment of disciplining and repressive power against the poor for whom there is no economic use and who are thus driven to the margin of society as a 'surplus' population. Regulations and strategies of this kind are applied in the nation-state context. Unlike the position with goods and financial markets, national limits are still defended for labour markets, the European Union being again here equivalent to a nation. In fact, however – despite all restrictions on immigration, quota regulations and tight exceptional criteria – competition between workers is today international. In formal terms, this applies only to sailors, the regulations for working conditions that apply in their country of origin following them when they take up employment in another country. In practice, however, this international competition between workers prevails whenever wages and specific provisions of labour legislation, along with the lack of these in another country or offshore zone, are seen as important criteria for investment decisions. In addition, international competition in particular segments of the labour market is sharpened by the growing number of migrant workers, who offer their labour-power also on markets to which they are denied legal access. Since they have no 'papers', they generally have to accept working conditions below the national standard. Though governments refuse foreigners temporary access to the national labour market under regular conditions, this does not prevent their immigration onto this market, but contributes to its being segmented also internally by national origin.

Practices of worldwide deployment of labour are not new. The modern slave trade developed as an international system of trade in people and goods, the exploitation of labour in the colonies was integrated into the development of capitalism in its heartlands, the great migration flows of the nineteenth century were geared to the promise of land and employment. Whilst these processes were hardly regulated by the states of the time, the slave and colonial economy was a state-tolerated and state-promoted use of labour in conditions of compulsion. The policy dominant today is oriented – by national regulations – to conditions of international competition. At the margins of these

there is still compulsion. Even though the so-called basic rights of labour that were elaborated by the International Labour Organisation have been ratified by many states, efforts aiming at punishing breaches of such conventions with sanctions have not succeeded. The foundation of international policy in nation-state sovereignty can still brake the development of international law.

By and large, however, processes of economic globalisation and the practice of 'global governance' have considerably curtailed the scope of national sovereignty, and thus also the scope of political decision within the national space. This process is irreversible. Its effects are felt by all states, in particular however states whose sovereignty is more or less fictitious, since their national policy is determined by international institutions, banks and foreign investors. None of these are responsible to the 'sovereign people'. This also reduces the effect of demands for democratisation and struggles against 'old corruption' in these countries. Processes of democratisation, however, are necessarily restricted in their effect if the principle of responsibility towards the sovereign people cannot be implemented. If the democratic principle of bourgeois state power has always been restricted by the fact that the conditions and effects of the capitalist economy stand in contradiction to the freedom and equality of the state's citizens, in national states whose sovereignty is largely fictitious even democratic self-determination can only be realised largely in a fictitious sense. Still less than before, therefore, is conquest needed in order to secure economic dominance, though just like before, the application of military force remains a political option.

The promises of bourgeois revolutions have not been redeemed by history. This applies to the contradiction between democracy and capitalism, which was certainly alleviated at certain historical periods, but could never be abolished, and it also applies to the self-determination of the sovereign people. Right from the start – i.e. long before the 'transformation of democracy' and 'structural change in the public sphere' lamented in the twentieth century –, the forms of representative democracy secured a socially selective expression of the popular will. And yet, the political space of bourgeois statehood repeatedly made struggles possible that threatened this favouritism. This fuelled the hope – which itself goes back to the promises of bourgeois revolutions – that the worldwide diffusion of structures of bourgeois statehood would make the world a better place. Today we know that this is not enough. But, since bourgeois forms of democracy cannot be organised in a supranational political

space – the world is precisely not a global village! – the first stage must be to set limits to powers and the powerful by international law. In this objective, the experiences made by theoretical and practical criticism of the *ancien régime* can still be relevant.



# Annotated Bibliography

## Preliminary note

Everything cited is listed here, but I do not mention all the literature consulted. Two considerations particularly govern the selection: works that are helpful for the non-specialist reader, and works that express a particularly striking interpretation, which generally also means a contentious one.

So as not to burden the main text, I have refrained in most cases from debate with particular works. The critique of certain interpretations will only be recognisable for those familiar with these discussions. In some cases, such debate is pursued in the Bibliography. This, then, has the function of clarifying my own analytical approach.

To facilitate use, full bibliographical details are repeated for several works. It is only when plural reference is made to a particular work in the same Section that the full details are given only when it is first cited. Subsequently I then give only the author and date.

Dates placed in brackets give the year of first publication for reissues and translations. For titles in both German and other languages I have used the nationally prevalent styles of capitalisation.

## Preface to the English edition (pp. ix–xii)

*References to some major works published since the first edition appeared*

The state of historical research is summarised in a multi-volume publication project of the European Science Foundation: *The Origins of the Modern State in Europe. 13th to 18th Centuries*, general editors Wim Blockmans and Jean-Philippe Genet. Individual volumes deal with specific elements in the emergence of modern statehood (several of these are cited below under Part Five, 3). This means however that the overall project excludes the question of the historical causes of modern statehood. Instead of discussion of processes that determined development there are presentations (some very convincing) of the development of war, economy, law etc. But future theoretical discussion of these results will be needed, especially the studies of 'national' developments, which are seldom taken adequately into account.

*Examples of the firming up of interpretations offered in the first edition*

The continuation of critical discussion on the analytical concept of 'absolutism' is documented in Ronald G. Asch and Heinz Duchhardt (eds.), *Der Absolutismus – eine Mythos? Strukturwandel monarchischer Herrschaft in West- und Mitteleuropa (ca 1550–1700)*, Weimar/Vienna 1996; the connection between historical and anthropological analysis is particularly fertile in Dominique Barthélemy, *Chevaliers et miracles. La violence et le sacré dans la société féodale*, Paris 2004.

*I have had to rethink for example the major importance I ascribe to religious denominations* Cf. on this Olaf Mörke, 'Die politische Bedeutung des Konfessionellen im Deutschen Reich und in der Republik der Vereinigten Niederlande', in R.G. Asch and H. Duchhardt (eds.) 1996, pp. 125–64.

*Indications for a reading of Max Weber that is not confined to his conceptual types*  
Theodor W. Adorno, *Introduction to Sociology*, Cambridge 2000.

2) *States in general, 'bourgeois states' in particular* (p. 5)

*Approaches to a general definition of 'the state' and thus of 'bourgeois state' as a particular configuration of the general concept*

V.I. Lenin, *The State and Revolution, Collected Works, Volume 25*, Moscow/London n.d. [1917]; Frederick Engels, *The Origin of the Family, Private Property and the State*, London 1972 [1884], esp. pp. 233 ff. For Engels, the state is fundamentally a machine for suppressing the oppressed and exploited class, becoming necessary with the advent of private property. Cf. M. Mann, Volume 1, 1986. (On p. 37, Mann formulates a 'provisional' definition. 'The state is a differentiated set of institutions and personnel embodying centrality in the sense that political relations radiate outward to cover a territorially demarcated area, over which it claims a monopoly of binding and permanent rule-making backed up by physical violence.') Maurice Godelier, 'Processes of the Formation, Diversity and Bases of the State', in *International Social Science Journal*, Volume 32, 4, 1980: 624–54. David Easton, *A Systems Analysis of Political Life*, Chicago/London 1979 [1965]; Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, Berkeley/London 1968 [1922]; Charles Tilly, 'Why Worry About Citizenship?', in M. Hanagan and C. Tilly (eds.), *Extending Citizenship, Reconfiguring States*, Lanham/Boulder 1999, pp. 49–59. On general concepts of the state cf. also Charles Bright and Susan Harding (eds.), *Statemaking and Social Movements*, Ann Arbor 1984.

*Critique of the concept of 'absolutist state'*

Recent debate in the German language was initiated by Gerhard Oestreich, 'Strukturprobleme des europäischen Absolutismus', in *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte*, 55, 1969: 325–47; Reinhard Blänker, "'Absolutismus" auf dem Kontinent – "Parlamentarismus" in England', in *Sowi*, 4, 1983: 228–31. On the general problematic see also Klaus Deppermann, 'Der preußische Absolutismus und der Adel', in *Geschichte und Gesellschaft*, 8, 1982: 538–53. More recently, Nicholas Henshall, *The Myth of Absolutism: Change and Continuity in Early Modern European Monarchy*, London 1992; and the discussion stimulated by Henshall's thesis in Ronald G. Asch and Heinz Duchhardt (eds.), *Der Absolutismus – ein Mythos? Strukturwandel monarchischer Herrschaft in West- und Mitteleuropa (ca 1550–1700)*, Weimar/Vienna 1996.

*Explanations of the 'modern state' by the repeated adding of 'modern' elements on to the state of the early modern age*

A typical example is Wolfgang Mager, *Frankreich vom Ancien Régime zur Moderne*, Stuttgart 1980; Heinrich Otto Meisner, 'Staats- und Regierungsformen in Deutschland seit dem 16. Jahrhundert', in Hanns Hubert Hofmann (ed.), *Die Entstehung des modernen souveränen Staates*, Cologne/Berlin 1967, pp. 321–50; J.H. Shennan, *The Origins of the Modern European State, 1450–1725*, London 1974.

This approach has recently come to be represented above all by the project of the European Science Foundation mentioned above. A position informed by cultural and military history is given by Jean-Philippe Genet, *La Genèse de l'État moderne. Culture et société politique en Angleterre*, Paris 2003. Wolfgang Reinhard in his now numerous and theoretically well-considered publications on the history of state power in the early-modern age has also explained the modern state in terms of a sum of modernisations: of taxation, the military, formation of institutions, increased need for legitimisation, etc. This explanation rests essentially on piling up processes that are used by the power élite. There is no a priori reason to contradict this, except as far as the explanation of the transition is concerned. This requires the abolition of personal rule along with the expropriation of established power élites. Reinhard on the other hand seeks a coherent multidimensional theoretical explanation for the growth of state power on the basis of an analysis that he conducts at three different levels of abstraction: the micro, meso and macro levels of society (1992, p. 63). This 'methodological trick' however no more

provides an explanation than does the similar trick of Braudel in allocating different speeds to historical processes. The connection still has to be theoretically illuminated. Cf. Wolfgang Reinhard, *Geschichte der Staatsgewalt. Eine vergleichende Verfassungsgeschichte Europas von den Anfängen bis zur Gegenwart*, Munich 1999/2000; idem, 'Kriegsstaat – Steuerstaat – Machtstaat', in R.G. Asch and H. Duchhardt 1996, pp. 277–310; idem, 'Das Wachstum der Staatsgewalt. Historische Reflexionen', in *Der Staat* 1992: 59–75.

*Modernisation theory perspectives*

A survey with a discussion of their analytical problems is offered by Hans-Ulrich Wehler, *Modernisierungstheorie und Geschichte*, Göttingen 1975; M. Reinhard Lepsius, 'Soziologische Theoreme über die Sozialstruktur der "Moderne" und die "Modernisierung"', in R. Koselleck (ed.), *Studien zum Beginn der modernen Welt*, Stuttgart 1977, pp. 10–29.

*The concept of 'bourgeois state'*

G.W.F. Hegel, *Philosophy of Right*, Oxford 1952 [1821], paragraphs 257–360 (Hegel, of course, says 'civil society' (*bürgerliche Gesellschaft*) rather than 'bourgeois state'). Karl Marx, 'On the Jewish Question' [1843], in *Early Writings*, Harmondsworth 1975. As an introduction to Marx's theory of the state, Eike Henning, Joachim Hirsch, Helmut Reichelt and Gert Schäfer (eds.), *Karl Marx/Friedrich Engels. Staatstheorie*, Frankfurt/Berlin/Vienna 1974.

For the theoretical concept of the separation of politics and economics, Ernst Forsthoef, *Der Staat der Industriegesellschaft*, Munich 1971.

3) *Examples of explanatory approaches* (p. 7)

*Productive forces and relations of production* (p. 8)

For the continuing discussion of the concept of 'bourgeois revolution', cf. B. Teschke 2005.

The theoretical basis of this is systematically presented in *Lehrbuch Politische Ökonomie. Vorsozialistische Produktionsweisen* (translated from the Russian), Frankfurt 1972 [1970]. A survey of the works of this orientation most relevant for the first discussion of feudalism can be found in Heidi Wunder (ed.), *Feudalismus*, Munich 1974. See also A.K. Pokrytan, *Produktionsverhältnisse und ökonomische Gesetze des Sozialismus*, Berlin 1973 [1971]. The most recent version of the universalistic Marxist conception of historical development, celebrated for its use of the instrumentarium of analytical epistemology but completely in thrall to the canonised theoretical position, is G.A. Cohen, *Karl Marx's Theory of History. A Defence*, Oxford 1978. My own critique of a theory of the necessary development of productive forces in a wider context than bourgeois society coincides in content with large parts of what Étienne Balibar has developed as a critique of the positions he himself previously put forward. Cf. É. Balibar, 'Über historische Dialektik. Kritische Anmerkungen zu *Lire le Capital*', in Urs Jaeggi and Axel Honneth (eds.), *Theorien des Historischen Materialismus*, Frankfurt 1977, pp. 293–343.

*The dynamic of technical development under capitalism*

Joseph A. Schumpeter, *The Theory of Economic Development*, Brunswick, NJ/London 1983 [1934].

*The debate on the transition from feudalism to capitalism*

Maurice Dobb, *Studies in the Development of Capitalism*, Cambridge 1946. Articles by the most important contributors to this discussion are collected in Rodney Hilton (ed.), *The Transition from Feudalism to Capitalism*, London 1976. A particularly striking representative of this orientation, influential on general research into feudalism, is Guy Bois, who interprets the decline in feudal rents as a cause of the crisis of 'feudalism': G. Bois, *The Crisis of Feudalism*, London 1984 [1976]. In a later work, however, Bois pays



more attention to the social forms of rule: 'Noblesse et crise des revenus seigneuriaux en France aux XIV<sup>ème</sup> et XV<sup>ème</sup> siècles: essai d'interprétation', in Philippe Contamine (ed.), *La Noblesse au Moyen Age*, Paris 1976, Chapter 10.

*The debate on 'feudalism' that was triggered by discussion of the 'transition'*

An important analytical advance is the contention that labour rent is not the only form of appropriation that can be taken as 'properly' feudal, but there are in fact a great variety of 'feudal' forms for extracting rents, the concrete forms of appropriation standing in close connection 'with the institutional forms of the superstructure' (Hilton (ed.) 1978 [1976], p. 18). This supersedes the view previously represented by Marxist theorists that under feudalism surplus labour was extracted by 'extra-economic force'. It was thus shown that such things as forced service on *desmesnes*, the involvement of lords in establishing crop rotation and fallow, decisions of marriage and inheritance as well as the ban sometimes enforced on trade in peasant products, were all ways in which the disposal opportunities of peasants over the means of production and decisions on production were restricted by power in many very concrete ways; in other words the peasant 'possession of the means of production' did not in any way make seigniorial power into something 'extra-economic'. Those Marxists who criticised a conception of modes of production in which the structural difference between the historical formations was conceived as the recombination of invariant factors (labour-power, means of production, property relations) generally refer to the research programme that Marx sketched out in the *Grundrisse*, Harmondsworth 1973, pp. 471–514) but failed to pursue owing to a changed emphasis in his orientation. Approaches developing a programme of analysis directed towards the discovery of social relations that are socially specific can be found both in Ludolf Kuchenbuch and Bernd Michael (eds.), *Feudalismus*, Frankfurt 1977 who try and determine the importance of the one-family peasant household as a structural feature of Western feudalism, as well as in Alain Guerreau, who emphasises the structural importance of 'artificial kinship' for feudalism, and describes was as the 'most important element of social cohesion in feudal societies' (1980, p. 194). A survey of such new approaches is given by Heide Wunder (ed.), *Feudalismus*, Munich 1974. Cf. also Brenner 1977; Alain Guerreau, *Le Féodalisme*, Paris 1980; Ludolf Kuchenbuch and Bernd Michael (eds.), *Feudalismus*, Frankfurt 1977.

A particularly striking example of the application of structuralist theoretical ideas is Régine Robin, 'La Nature de l'État à la fin de l'ancien régime: Formation sociale, État et transition', in *Dialectiques*, 1 & 2, 1973: 31–54. Also Pierre-Philippe Rey, *Les Alliances des classes*, Paris 1978. For a critique of structuralist 'improvement' of historical materialism, see in particular George C. Comninel, *The French Revolution. Marxism and the Revisionist Challenge*, London/New York 1987, part 4; also Chris Wickham, 'Historical Materialism, Historical Sociology' (review article), in *New Left Review*, I, 171, 1988: 63–78.

*The international dynamic of capitalism (p. 11)*

Immanuel Wallerstein, *The Modern World System*, 2 vols., London 1974 and 1980; idem, *Historical Capitalism*, London 1983. Cf. also the discussion of Wallerstein's work by Robert Brenner, 'The Origins of Capitalist Development: A Critique of Neo-Smithian Marxism', in *New Left Review*, I, 104, 1977: 25–92; idem, 'The Social Basis of English Commercial Expansionism, 1550–1650', *Journal of Economic History*, 1, 1972: 361–84. Jochen Blaschke (ed.), *Perspektiven des Weltsystems*, Frankfurt/New York 1983. More recently, Roland Axtmann, 'The Formation of the Modern State: The Debate in the Social Sciences', in Mary Fulbrook (ed.), *National Histories and European History*, London 1993, Chapter 2, esp. pp. 34–6; Benno Teschke, *The Myth of 1648. Class, Geopolitics and the Making of Modern International Relations*, London 2003, esp. Chapter 6.

*The rise of modern states in an international capitalist system*

Rosenberg 1994; Teschke 2003; and Teschke 2005. See also David Harvey, *The New Imperialism*, Oxford 2003.

*Perry Anderson's theory of the political conditions of the transformation process* (p. 16)

The works of Perry Anderson referred to here are *Passages from Antiquity to Feudalism*, London 1974 (cited as Anderson 1974 I) and *Lineages of the Absolutist State*, London 1974 (cited as 1974 II).

#### *Class theory*

I refrain in the text from debate with all those authors, such as Roland Mousnier for example, who explain classes in terms of market relations: R. Mousnier, *Les Hiérarchies sociales de 1450 à nos jours*, Paris 1969, pp. 30 ff., or in terms of similar 'class positions', as does Max Weber (the theoretical structure is the same), cf. *Economy and Society*. In all these cases, 'class' is a category oriented chiefly to analysis of social hierarchy, as more recently also Maurice Godelier, in S. Breuer and H. Treiber (eds.) 1982, pp. 18–35. An excellent debate with such positions is offered by G.E.M. de Ste. Croix, *The Class Struggle in the Ancient Greek World*, London 1981, Chapters 2 and 5, though I do not myself agree with de Ste. Croix's unreserved application of the class concept to antiquity. I would also refer to the theoretical discussion in R.W. Connell and T.H. Irving, *Class Struggle in Australian History*, Melbourne 1980, pp. 1–30.

#### *For a critique of Anderson*

Cf. also E.P. Thompson, *The Poverty of Theory*, London 1978. For a use of the class concept beyond the spectrum of Marxist theory, I also refer to Jack H. Hexter, *Reappraisals in History*, London 1961. An informative summary of different definitions of 'class' as well as evidence for the incautious deployment of this category can be found in Horst Stuke, 'Bedeutung und Problematik des Klassenbegriffs', in Ulrich Engelhardt, Vilker Sellin and Horst Stuker (eds.), *Soziale Bewegung und politische Verfassung*, Stuttgart 1976, pp. 46–82. Anyone who, like the present author, does not adhere to Giddens's recuperation of class theory, can decisively learn from this author what class is *not*. Cf. in particular Anthony Giddens, *The Class Structure of the Advanced Societies*, London 1973, esp. Chapter 6, as well as idem, *Social Theory and Modern Sociology*, Oxford 1987, Chapter 9 (on E.P. Thompson and P. Anderson). My own position largely coincides with that of Étienne Balibar, 'L'Idée d'une politique de classe chez Marx', in *Temps Modernes*, 451, 1984: 1357–406. Balibar points out that even Marx, as soon as he turns to concrete historical analysis, no longer sees classes as unities of action (p. 1397), and it is not classes (or at most, only in propagandist texts) but rather 'the people' or 'the masses' who appear as the subject of history.

#### *For an example of the historical rise of criticism of the nobility*

Michel Vovelle, 'L'Elite ou le mensonge des mots', in *Annales. Économies – Sociétés – Civilisations*, 29, 1974: 49–72.

#### *Max Weber's theory of Western rationalism* (p. 23)

I have drawn on Max Weber, *Gesammelte Aufsätze zur Wissenschaftslehre*, (ed.) J. Winckelmann [1922], 5th edn., Tübingen 1982; idem, *Sociology of Religion*, Boston 1993; idem, *Economy and Society* (2 vols.), Berkeley/London 1979. My own interpretation is based in essentials on the results of common teaching work with Franz Dröge. This interpretation differs among others from that in Stefan Breuer, Hubert Treiber and Manfred Walther, 'Entstehungsbedingungen des modernen Anstaltsstaates. Überlegungen im Anschluß an Max Weber', in S. Breuer and H. Treiber (eds.) 1982, pp. 75–153.

For a critique of the interpretative model of a developing Western rationality, see for example S.F.C. Milsom, *Historical Foundations of the Common Law*, 2nd edn., London 1981.

#### *The limits of commercialisation*

Witold Kula, *Théorie économique du système féodal*, Paris/The Hague 1970. See also the extended review of Michael Postan, 'The Feudal Economy', in *New Left Review*, I, 103, 1977: 72–8.

*The particular rationality of the peasant economy*

A.V. Chayanov, *On the Theory of the Peasant Economy*, ed. Daniel Thorner, Basile Kerblay and R.E.F. Smith, Homewood 1966 [1925]. John Berger, *Pig Earth*, London 1979, has taken much from Chayanov (see in particular the historical afterword). Henri Mendras, *Les Sociétés paysannes*, Paris 1995.

*Merchant's capital*

See above all Karl Marx, *Capital* Volume 3, Harmondsworth 1981, pp. 440–58; for more detail, Brenner 1977. Cf. however on this question the well-founded proposal of Foster-Carter not to push too far the polemic against merchant's capital as a bearer of development, but to assess its significance in the overall context. This corresponds to my own analysis of the dissolution of feudal structures of rule as the precondition for capitalisation. Merchant's capital was also involved in this process: Aidan Foster-Carter, 'The Modes of Production Controversy', in *New Left Review*, I, 107, 1978: 55–74.

*The assumption of the expansive dynamic of the market* is very widespread. To give just two striking examples: Henri Pirenne, *Histoire économique de l'occident médiéval*, Paris 1951; Paul Sweezy, in Hilton (ed.) 1976. This assumption is criticised with particular effect in Karl Polanyi, *The Great Transformation* [1944], London 2000.

4) *False conclusions of structural analysis* (p. 28)

5) *Pitfalls in historical comparison* (p. 31)

Thomas Smith (or Smyth), *De Republica Anglorum*, Menston 1970 [1583].

*Examples of the development of generalisations on the basis of mere classification*

Particularly characteristic here are the works of S.N. Eisenstadt. Cf. *Essays on Sociological Aspects of Political and Economic Development*, The Hague/Mouton 1961; idem, *The Political Systems of Empires*, New York/London 1963; also Rushton Coulborn, 'A Comparative Study of Feudalism', in S.N. Eisenstadt (ed.), *Feudalism in History*, Princeton 1956, Part 3.

*The method of historical comparison*

A good survey of the development of the comparative method is offered by Robert M. Marsh, *Comparative Sociology*, New York 1967. For general problems of method and examples of comparative studies, Stein Rokkan (ed.), *Comparative Research across Cultures and Nations*, Paris/The Hague 1968 (above all the contributions of V.R. Lorwin and R. Rose). The fullest presentation of comparative historical works is to be found in Theda Skocpol (ed.), *Vision and Method in Historical Sociology*, Cambridge 1984. The author is in debt to Philip Abrams for a series of clarifications: *Historical Sociology*, Shepton Mallet 1982. Also in particular Max Weber 1982. Dangers in the use of historical comparison are discussed by Heinz-Gerhard Haupt and Jürgen Kocka in their editorial introduction to *Geschichte und Vergleich. Ansätze und Ergebnisse international vergleichender Geschichtsschreibung*, Frankfurt 1996, pp. 9–46 (cf. also the other contributions in this volume).

J. Barrington Moore, Jr., *The Social Origins of Dictatorship and Democracy. Lord and Peasant in the Making of the Modern World*, Boston 1967; Theda Skocpol, *States and Social Revolution: A Comparative Analysis of France, Russia and China*, Cambridge 1979; Reinhard Bendix, *Nation-Building and Citizenship: Studies of Our Changing Social Order*, New York 1964; idem, *Kings or People: Power and the Mandate to Rule*, Berkeley 1978. Bendix initially used historical comparison in order to criticise the generalisations of modernisation theory. Later, however, he increasingly challenged the possibility of general theoretical statements.

6) *Advice on reading* (p. 36)

Bertrand de Jouvenel, *Les Débuts de l'État moderne. Une histoire des idées politiques au XIX<sup>ème</sup> siècle*, Paris 1976. The history of ideas and the history of power are related far less immediately by Olaf Asbach, *Staat und Politik zwischen Absolutismus und Aufklärung*, Hildesheim 2005.

**Part Two**

**From Ancien Régime to Bourgeois State: England (p. 37)**

'How then did they do it?' (p. 39)

Jack H. Hexter, 'A New Framework for Social History', reprinted in idem, *Reappraisals in History*, London 1961; K. Bruce McFarlane, *The Nobility of Later Medieval England*, Oxford 1973; Alan Macfarlane, *The Origins of English Individualism*, Oxford 1978. The fundamental difference between English and French feudalism is indicated by Fred-eric William Maitland, *The Constitutional History of England*, Cambridge 1920, pp. 141–64 (a contribution whose theoretical reflection recommends it for any concern with feudalism). More focused on outward forms is H.G. Richardson and G.O. Sayles, *The Governance of Medieval England from the Conquest to Magna Carta*, Edinburgh 1963, pp. 129, 168 & passim. E.P. Thompson, 'The Peculiarities of the English', in *Socialist Register* 1965, repr. in *The Poverty of Theory and Other Essays*, London 1978.

**Chapter One English Feudalism: Appropriation by Land Lordship and Force of Arms under Feudally Generalised Royal Power (p. 41)**

a. *Preconditions of feudal rule* (p. 41)

*As a general introduction to the agrarian organisation of the early Middle Ages*

Marc Bloch, 'The Rise of Dependent Cultivation and Seigneurial Institutions', in *The Cambridge Economic History of Europe* (ed.) M.M. Postan, 2nd edn., 1971, Volume 1, Chapter 6.

*On rulership before the Norman Conquest*

The position that formerly free peasants were subjugated by lords from the 7th century onwards is most clearly represented by Frank Merry Stenton, *Anglo-Saxon England*, Oxford 1962 [1943]. See also T.H. Aston, 'The Origins of the Manor in England', in W.E. Minchinton (ed.), *Essays in Agrarian History*, Volume 1, New York 1968, pp. 9–36. Aston stresses that land was already in the permanent possession of lords before the Conquest, and that, as far as a large part of the English 'tenantry' are concerned, there is no indication that they were free land-holding peasants. This point was already made by George Reresby Sitwell, 'The English Gentleman', in *The Ancestor*, 1, 1902: 58–103.

For a systematic analysis of more recent research results, see Reginald Lennard, *Rural England 1086–1135*, Oxford 1959, pp. 23 ff.; George W. Keeton, *The Norman Conquest and the Common Law*, London/New York 1966; E. Miller and J. Hatcher, *Medieval England – Rural Society and Economic Change 1086–1348*, London 1978.

On *wergeld*, see William Jan Miller, 'Choosing the Avenger: Some Aspects of the bloodfeud in Medieval Iceland and England' in *Law and History*, 1, 1963, 2: pp. 159–204.

*The general development of the church's claim to rule and practice of this*

R.W. Southern, *Western Society and the Church in the Middle Ages*, Harmondsworth 1970, esp. Section 2.2 on missionising and the development of the church in Anglo-Saxon England; F.M. Stenton 1962, pp. 427 ff.; Peter Hunter Blair, *An Introduction to Anglo-Saxon England*, Cambridge 1977 [1959], pp. 117 ff.; Frank Barlow, *The Feudal Kingdom*

of England 1042–1216, 3rd edn., London 1972, pp. 27 ff.; J.M. Wallace-Hadrill, *Early Medieval History*, Oxford 1975, pp. 115–137; D.P. Kirby, *The Making of Early England*, London 1967, pp. 93 ff.

*The clerical definition of royal rule*

J.M. Wallace-Hadrill 1975, pp. 98 ff., 151; Harald Kleinschmidt, *Untersuchungen über das englische Königtum im 10. Jahrhundert*, Göttingen 1979 (pp. 27 ff. on royal involvement in the monastic reform movement; pp. 40 ff. for the description of the English king as emperor).

*On royal ruling power*

A work that while superseded in detail by more recent research, remains fundamental in its general problematic, is Frederick Pollock and Frederic William Maitland, *The History of English Law before the Time of Edward I*, 2nd edn., London 1898, Chapter 2; see also F.M. Stenton 1962, especially here pp. 439 ff. A good overview is also to be found in G.W.S. Barlow, *Feudal Britain*, London 1976 [1956], pp. 27 ff.; see also George W. Keeton 1966, esp. pp. 11–25. On the mutual reinforcement of the power of king and nobles, F. Barlow 1972, p. 13; on the centralisation of instruments of rule in 'old England', Frank Barlow, 'The Effects of the Norman Conquest', in C.T. Chevallier (ed.), *The Norman Conquest, Its Setting and Impact*, London 1966. (This essay is one of the most precise presentations of the relevant questions.) The English kingdom before the Conquest was 'very likely the most powerful in the Western world', according to R.H.C. Davis, 'The Norman Conquest', in *History*, Volume 51, 1966: 279–86. (Cited after W.C. Hollister (ed.), *The Impact of the Norman Conquest*, New York/London 1969.)

On the 'hundreds' ('administrative districts' and courts), H.R. Loyn, 'The Hundred in the Tenth and Early Eleventh Centuries', in H. Hearder and H.R. Loyn (eds.), *British Government and Administration*, Cardiff 1974, pp. 1–15.

b. *Establishment of feudal power structures* (p. 44)

b.1. *The conquest of lordship* (p. 44)

*General presentations*

G.W.S. Barrow 1976. For a social-historical argument: Doris Mary Stenton, *English Society in the Early Middle Ages, 1066–1307*, Harmondsworth 1967 [1951]. More precisely on the form of rule, Frank Merry Stenton, *The First Century of English Feudalism, 1066–1166*, Westport 1960 [1950]. (The author defines feudalism primarily in terms of knights and castles, but this is still an analysis to be recommended.) For an orientation strongly geared to institutions: Marcel Pacaut, *Les Structures politiques de l'occident médiéval*, Paris 1969, Chapter 2. Also primarily on the development of the organisation of rule, but very innovative and extremely stimulating to read in debate with other authors, if not completely convincing: H.G. Richardson and G.O. Sayles 1963 (also on the Domesday survey).

*The battle of Hastings and the march on London*

John Beeler, *Warfare in England 1066–1189*, Ithaca 1966, pp. 18–45.

*Occupation rule and 'feudalisation'*

John Beeler 1966: 6 ff.; F. Barlow, in C.T. Chevallier (ed.) 1966, pp. 148 ff.; insightful and drawing on archaeological discoveries is Colin Platt, *Medieval England. A Social History and Archaeology from the Conquest to A.D. 1600*, London/Henley 1978; on rule over land distribution: H.A. Cronne, *The Reign of Stephen 1135–54. Anarchy in England*, London 1970, p. 153.

On the 'anarchy' of these years, the above work with its especially analytical orientation is to be recommended far beyond its immediate subject. Other worthwhile discussions include G.W.S. Barrow 1976, pp. 114 ff. On the insecurity of the conquered kingdom in the first few decades: F.M. Stenton 1960, pp. 49 ff.

On the oath of 1086 'from all the landholding men who were of any account' and the recording of obligations of loyalty in 1166, cf. D.M. Stenton 1967.

On the Domesday survey, a summary presentation of the state of research is given by G.W. Keeton 1966. The 'greatest' book on English medieval history (thus described by J.C. Holt in his foreword) remains Frederic William Maitland, *Domesday Book and Beyond*, Cambridge 1987 [1897].

On the continuation of the taxation power of the 'old English' kings: G.L. Harris, *King, Parliament and Public Finance in Medieval England*, Oxford 1975.

On the distribution of land: R. Lennard 1959, p. 25 (Lennard bases himself here on Corbett's figures).

On military development, the thesis of a dual military structure is represented in a somewhat toned-down form by C. Warren Hollister, '1066: The Feudal Revolution', in C. Warren Hollister (ed.), *The Impact of the Norman Conquest*, New York 1969, pp. 109 ff. (see also in the same volume Eric John, 'Land Tenure in Early England', pp. 88 ff.); also John Beeler, *Warfare in England 1066–1189*, Ithaca, NY 1966. For a different view on many points to the above-cited authors, see H.G. Richardson and G.O. Sayles 1963, pp. 42 ff. Their work can be taken as a good introduction to the discussions of military structure. On the development of the *familia regis*: J.O. Prestwich, 'The Military Household of the Norman Kings', in *English Historical Review* 96, 1981: 1–35. More recently, especially on certain particular questions: R.M. Smith, 'Some Thoughts on "Hereditary and Proprietary" Rights in Land under Customary Law in Thirteenth- and Early Fourteenth-Century England', in *Law and History*, Volume 1, 1983: 95–128; Paul Vinogradoff, *Villeinage in England*, New York 1967 [1923], pp. 358 ff. For a systematic treatment of the fact that feudal rule was not directed simply to the extraction of the results of production but involved a rule over production itself, see John E. Martin, *Feudalism to Capitalism*, London/1983, esp. pp. 27–45.

On the 'property' aspect in English feudalism: William Searle Holdsworth, *A Historical Introduction to the Land Law*, Aalen 1977 [1927], p. 22. For examples of the monetary orientation of the English monasteries: D.J.A. Matthew, *The Norman Conquest*, New York 1966.

On 'rough wooing', as this could still be found in Scotland in 1547: John A.F. Thomson, *The Transformation of Medieval England 1370–1529*, Harlow 1983, p. 372; cf. also K.B. McFarlane 1971, p. 41. (I have also drawn on this work here for the change in military structures and on 'trial by battle'.)

#### *The development of towns, trade, and manufacturing production*

J.M. Wallace-Hadrill 1975, p. 113 (especially here on commodity production for the international market as being long established); Susan Reynolds, *An Introduction to the History of English Medieval Towns*, Oxford 1977 (this can also be used as an introduction to the state of research; it is distinguished by a theoretical approach to urban development that is rare among English medieval historians); Colin Platt 1978. Also on the economic potential and growing political strength of towns, J.R. Maddicott, 'Magna Carta and the Local Community 1215–1259', in *Past and Present*, 102, 1984: 25–65. Hilton shows elsewhere that smaller 'towns' often scarcely escaped the most immediate forms of dependence: Rodney H. Hilton, 'Lords, Burgesses and Hucksters', in *Past and Present*, 97, 1982: pp. 3–15.

#### b.2. *Development of the manor and lordship* (p. 47)

##### *'Land law' in general*

W.S. Holdsworth 1977; this work is fundamental and informative about all formal legal developments, and extends through to the final abolition in the twentieth century. On the earlier period, with an orientation that whilst equally that of legal history is also more sociological than the present approach: F. Pollock and F.M. Maitland 1898, esp. Chapter 4. On the general structure of tenure: F.W. Maitland 1920, p. 155.

On the development of manorialism, among older works see in particular P. Vinogradoff 1967; among more recent works with general information, especially R. Lennard 1959; D.M. Stenton 1967. My own theoretical argument is strongly influenced by J.E.

Martin 1983. Also to be drawn on as a summary of research findings are G.W. Keeton 1966; Edward Miller and John Hatcher, *Medieval England – Rural Society and Economic Change 1086–1348*, London 1978. H.S. Bennett, *Life on the English Manor*, Cambridge 1965 [1937], remains rather general, though pp. 138–45 give details of the dues that were held to prove villein status. The differing development of production in various regions is very carefully analysed in H.E. Hallam, *Rural England 1066–1348*, Glasgow 1981. Hilton's view on the change in the position of the peasantry, i.e. that this deteriorated in the late twelfth century, has since become widely accepted. Hilton emphasises the continuing distinctions between those districts in which manorialism had already been very largely established before the Conquest, and those in which it was only imposed after this: Rodney H. Hilton, 'Freedom and Villeinage in England', in *Past and Present*, 31, 1965: 3–19; also E. Miller and J. Hatcher 1978, Chapter 5. Also C. Dyer, 'The Social and Economic Background to the Rural Revolt of 1381' in C. Dyer (ed.), *The English Rising of 1381*, London 1981.

On the development of the manor courts, when 'vill' and manor coincided: Theodore F.T. Plucknett, *A Concise History of the Common Law* [1929], Boston 1956.

### b.3. Feudal generalisation of royal power (p. 56)

#### *Development of the crown's judicial power*

For the period up to Magna Carta, H.G. Richardson and G.O. Sayles 1966. On all aspects of the feudal generalisation of royal power, G.W.S. Barrow 1976, pp. 156 ff.; Maurice Powicke, *Medieval England 1066–1485*, London 1969 [1931], pp. 77 ff.; T.F.T. Plucknett 1956 (pp. 89 ff. on judicial power in private possession under Edward I); John Schlight, *Henri II Plantagenet*, New York 1973 (pp. 81 ff. especially on judicial power); John G. Bellamy, *Crime and Public Order in England in the Later Middle Ages*, London/Toronto 1973 (pp. 89 ff. on sheriffs in the thirteenth century as well as judicial organisation in general).

#### *The incorporation of the church*

On the conflict between Henry II and Becket, see the detailed treatment in H.G. Richardson and G.O. Sayles 1963, Chapter 16. On incorporation in general: T.F.T. Plucknett 1956, pp. 13 ff. For an interpretation of the resolution of the investiture conflict in favour of the crown: Theodor Klamm, *Der englische Investiturstreit unter Heinrich I*, Leipzig 1880, p. 68.

#### *The development of sub-infeudation, the fiscalisation of feudalism and the change in the organisation of armed force*

On the significance of mercenaries: J. Schlight 1973, pp. 146 ff. Generally on the change in the organisation of military power: I.J. Sanders, *Feudal Military Service in England*, Oxford/London 1956. On the change in knight's service and status (as well as the size of knight's fees): Sally Harvey, 'The Knight and the Knight's Fee in England', in *Past and Present*, 49, 1970: 3–43; F. Pollock and F.W. Maitland 1898 (on the separation of obligations that an individual had to fulfill from those incumbent on land, see pp. 237 ff.). On fiscalisation in general: J.M.W. Bean, *The Decline of English Feudalism*, Manchester/New York 1968 (in a certain contradiction with the title of his book, Bean points out on p. 1 that feudalism in England was a system of fiscal appropriation right from the start); H.A. Cronne 1970. For a careful study of reversions and tax assessment: Thomas K. Keefe, *Feudal Assessments and the Political Community under Henry II and His Sons*, Los Angeles 1983.

#### *The relationship between the English crown and its 'barons' in the period from the 11th to the 14th century*

D.M. Stenton 1967, pp. 43 ff. On clemency towards rebels: John G. Bellamy, *The Law of Treason in England in the Later Middle Ages*, Cambridge 1970. On the notion of *baro* in the eleventh and twelfth centuries: I.J. Sanders 1956, pp. vii ff. (On attempts to show that certain tenancies were not baronial, *ibid.*, p. 12.) On the changing meaning of the term *baro* (initially used also for under-vassals of the royal vassals): E. Miller and J. Hatcher

1978, esp. p. 169. On the difference in the meaning of the term *vavassor* in Normandy and England: H.G. Richardson and G.O. Sayles 1963, p. 129; for the emergence of the nobility, see in particular K.B. McFarlane 1973.

*On forest right*

See in particular D.M. Stenton 1967, pp. 221 ff.; G.W. Keeton 1966, pp. 180–8.

*The beginnings of an administrative ruling practice*

H.G. Richardson and G.O. Sayles 1963. Rather descriptive and very oriented to chronology, but informative on details: Austin Lane Pool, *From Domesday Book to Magna Carta, 1087–1216*, Oxford 1958 [1951]. For the fact that Henry I already employed experts not drawn from the nobility: H.A. Cronne 1970, p. 23. On the increasing employment of 'specialists' in the administration in the fourteenth century: M. Powicke 1969, p. 102. On the development of the principle of the 'undying king', cf. among others H.G. Richardson and G.O. Sayles 1963; also Percy Ernst Schramm, *Geschichte des englischen Königtums im Lichte der Krönung*, Darmstadt 1970 [1937], pp. 165 ff.

Chapter Two *The Ancien Régime in England* (p. 63)

a. *Establishment of the ancien régime* (p. 63)

a.1. *Partial objectification of structures of rule and appropriation* (p. 64)

*The 'institutional unity' of forms of feudal rule*

Frederic William Maitland, *The Constitutional History of England*, Cambridge 1920, p. 155 & passim; William Searle Holdsworth, *An Historical Introduction to the Land Law*, Aalen 1977 [1927]. On the Statute of Marlborough: J.M.W. Bean, *The Decline of English Feudalism*, New York 1968, p. 21.

*Objectification and partial dissolution of lordship*

A reading of the so-called Brenner debate is recommended as a general introduction. The various contributions are now collected in accessible form in Trevor Henry Aston and C.H.E. Philpin (eds.), *The Brenner Debate. Agrarian Class Structure and Economic Development in Pre-Industrial Europe*, Cambridge 1985. Postan has put forward a particularly striking position criticised by Brenner and others, summarised in *The Cambridge Economic History of Europe*, ed. M.M. Postan, 2nd edn., Volume 1, London 1971, Chapter 7. (Postan understands modernisation as the dissolution of manorialism, and treats the development of population as a kind of autonomous variable. A systematic critique of this position, theoretically oriented and based on secondary sources, can be found in John E. Martin, *Feudalism to Capitalism*, London 1983.) Authors who do not treat monetarisation as a dissolution of manorialism, yet emphasise the objectification of structures of exploitation, include in particular: Rodney H. Hilton, *The English Peasantry in the Later Middle Ages*, Oxford 1979 [1975] (esp. p. 43); as far back as the 1920s a similar position was maintained by Paul Vinogradoff, *Villeinage in England*, New York 1967 [1923], p. 341. On the transformation of 'tailage at will' into a regular monetary due, cf. H.S. Bennett, *Life on the English Manor*, Cambridge 1965 [1937], pp. 138 ff. Also Eugeny A. Kosminsky, *Studies in the Agrarian History of England in the Thirteenth Century*, Oxford, 1956.

For a general treatment of formalisation, well representing the state of research with particular analyses especially of the significance of the change in manorial courts: R.M. Smith, 'Some Thoughts on "Hereditary" and "Proprietary" Rights in Land under Customary Law in Thirteenth- and Early-Fourteenth Century England', in *Law and History*, 1983: 95–128 (on licenses for the sale and purchase of 'villein land', pp. 108, 110; on monetarisation, p. 119). The opportunities for unfree peasants to engage in commerce are also stressed by Geoffrey R. Elton, *England 1200–1640*, London 1969, pp. 141 ff. For a general discussion of the fixing of structures of exploitation: John Hatcher, 'English Serfdom and Villeinage: Towards a Reassessment', in *Past and Present*, 90,



1981: 6, 33 & passim; also Edward Miller and John Hatcher, *Medieval England*, London 1978. On the large differences between particular manors: J.Z. Titow, 'Some Differences Between Manors and their Effects on the Condition of the Peasant in the Thirteenth Century', in W.E. Minchinton (ed.), *Essays in Agrarian History*, Volume 1, New York 1968, pp. 37–52. J.E. Martin 1983 offers a systematic discussion of this subject.

*On manorial courts*

P. Vinogradoff 1967, Chapter 7.

*On the administration of manors in general*

R.M. Smith 1983; E. Miller and J. Hatcher 1979.

*On the validation of the right to have sons educated* (first formally confirmed in 1406): J.R. Lander, *Government and Community. England 1450–1509*, Cambridge, MA 1980.

*The beginnings of labour legislation in the period of labour scarcity*

A classic work, still decisive on the development of the administrative structure, is Bertha Haven Putnam, *The Enforcement of the Statute of Labourers*, New York 1908. The class strategy of the lords is emphasised in Richard H. Jones, *The Royal Policy of Richard II: Absolutism in the Later Middle Ages*, Oxford 1968, pp. 59 ff. Poos, on the other hand, though he does not dispute that the Statute of Labourers was a class strategy of the high and lower nobles, maintains that the application of this law extended 'class' interests to those peasants who sought labour-power; Poos also emphasises that the fines imposed were used to subsidise war (a point already made by Putnam). In this way, a considerable part of the costs of the armed appropriation of lords was actually borne by their wage-workers: L.R. Poos, 'The Social Context of Statute of Labourers Enforcement', in *Law and History*, 1, 1983: 27–52. On peasant struggles in general, and the uprising of 1381: Colin Platt, *Medieval England*, London/Henley 1978, pp. 108 ff.; Rodney H. Hilton, *Bond Men Made Free*, London 1973. A documentary volume is *The Peasants' Revolt of 1381*, ed. R.B. Dobson, London 1970; cf. also *The English Rising of 1381*, published by the Past and Present Society, 1981.

*Fiscalisation of tenancy (p. 70)*

The fundamental work is K. Bruce McFarlane, "'Bastard Feudalism'", in *Bulletin of the Institute of Historical Research*, 20, 1945: 161–80. This essay is reprinted in the collective volume that is also relevant for the present subject: K. Bruce McFarlane, *England in the Fifteenth Century*, London 1981. A summary of recent research clearly influenced by McFarlane's analytical approach is J.R. Lander 1980, introduction. The particular forms of the transformation of dues, and the contemporary debates about these, are treated exhaustively in J.M.W. Bean 1968.

a.2. *Restructuring of personal power in forms of estate rule (p. 75)*

J.W. McKenna, 'The Myth of Parliamentary Sovereignty in Late Medieval England', in *English Historical Review*, 372, 1979: 481–506; M.L. Bush, *The English Aristocracy. A Comparative Synthesis*, Manchester 1984.

*Constitution of the high nobility (p. 76)*

Cf. for this entire Section: K. Bruce McFarlane, *The Nobility of Later Medieval England*, Oxford 1973; idem 1981 (also the introduction to this volume by G.L. Harris; idem 1945). Also G.R. Lander, *Conflict and Stability in Fifteenth-Century England*, London 1969; idem, *Crown and Nobility 1450–1509*, London 1976 (especially the outstanding introduction on the state of research); idem 1980. Marion Yass, *The English Aristocracy*, London 1974, is recommended only as an introductory survey.

My interpretation of the significance of Parliaments for the structure of rule largely follows G.O. Sayles, *The King's Parliament of England*, London 1975; also J.W. McKenna

1979; John A.F. Thomson, *The Transformation of Medieval England, 1370–1529*, London 1983, pp. 103 ff., 278 ff. On the mutual dependence of crown and nobility, a summary of the question as a whole is A.R. Myers, *England in the Late Middle Ages*, 8th edn., Harmondsworth 1971, Chapter 2; also J.R. Lander 1976, pp. 13 ff., 32 ff. (on the fact that the crown depended on the 'affinities' for maintaining peace). Whilst Lander generally interprets the affinities rather as a stabilising element of the late-medieval social structure, Thomson 1983 upholds the opposite view (pp. 118 ff.). By tracing the development of the judgements and condemnations of rebellions, Bellamy makes clear in an exemplary fashion the relationship between nobility and crown, and the change in this relationship. In his view (p. 206), the contemporary interpretation of revolts in the late Middle Ages expressed the structures of mutual dependence as well as the influence of the Commons: John G. Bellamy, *The Law of Treason in England in the Later Middle Ages*, Cambridge 1970. Whilst Bellamy shows how gradually 'atteinder' (condemnation by court, parliament or confirmation of guilt through 'trial by battle') began as a general rule to have the consequence of forfeiture of possessions, J.R. Lander 1976 insists that in the Wars of the Roses, for example, 84 per cent of all atteinders were subsequently cancelled (p. 68).

Much about the conditions of mutual dependence of nobility and crown is made clear in those struggles that marked the reign of Richard II. See here R.H. Jones 1968, who points out however that already at the end of the reign of Edward III and in the reigns of his sons, great nobles maintained their own diplomatic connections with foreign courts; pp. 9 ff. Cf. likewise Anthony Tuck, *Richard II and the English Nobility*, New York 1974; in this work, the failure of Richard's attempt on the one hand to free himself from dependence on 'the nobility', and on the other hand to create a group of nobles particularly dependent on the crown, is particularly well explained. For the 'money questions' that lay at the centre of this dependence, cf. the fundamental work of G.L. Harris, *King, Parliament and Public Finance in Medieval England to 1369*, Oxford 1975.

On feudal rule, cf. the references for the Section on 'The Fiscalisation of Feudal Rule' above.

*The formalisation of structures of mutual dependence in the practice of Parliaments*  
G.O. Sayles 1975 stresses their dependence on the will of the king, and highlights the fact that Parliaments were 'properly' constituted even if the Commons were not summoned. It was only for the formulation of petitions that the Commons acquired a regular place in parliamentary practice. The same conclusion is reached by J.W. McKenna 1979, pp. 481–506. Both authors argue against an interpretation based on Bishop Stubbs that has long been firmly anchored in English historical writing, a representative example of which is Theodore F.T. Plucknett, *A Concise History of the Common Law*, Boston 1956 [1929], esp. p. 31.

*The significance of the disempowering of the sheriffs for the strengthening of the local power of magnates*

John Bellamy, *Crime and Public Order in England in the Later Middle Ages*, London/Toronto 1973, pp. 93 ff.

*The lords' strategies to appropriate the right to judge serious criminal cases*

H.S. Bennett 1965, pp. 196 ff.

*The basis of noble rule in the commercialising of landholding*

N. Denholm-Young, *Seigniorial Administration in England*, London 1963 [1937], pp. 19, 63. On private councils and estate management in general: E. Miller and J. Hatcher 1978, pp. 192 ff.; also A.R. Bridbury, *Economic Growth*, 1962, Brighton 1975 (this author's work, even if it only treats seigniorial and landlord appropriation incidentally, is highly informative for the debate on structures of exploitation and appropriation, and particularly important for its critique of long established positions for the discussion in recent decades); Dorothea Oschinsky, 'Medieval Treatises on Estate Management', in *Economic Historical Review*, 8, 1955–6: 296–309. On baronial councils and their relation-

ship to manorial courts, see Ada Elizabeth Levett, *Studies in Manorial History*, edited by H.M. Cam, M. Coate and L.S. Sutherland, Oxford 1938, Chapter 2. On feudal and seigniorial jurisdiction: Frederick Pollock and Frederic William Maitland, *The History of English Law Before the Time of Edward I*, Cambridge 1898 (2nd edn.), Sections 6, 7. On the attempts by the lords to appropriate the profits of labour jurisdiction, cf. B.H. Putnam 1908, p. 98.

#### *Armed appropriation*

On the Hundred Years War, to the extent that this is discussed in the text, I base my argument largely on K. Bruce McFarlane, 'England and the Hundred Years War', in *Past and Present*, 1962: 3–17. A different position (not on the nobility, but on the somewhat abstract notion of 'kingship') is represented by M.M. Postan, 'The Costs of the Hundred Years War', in *Past and Present*, 27, 1964: 34–53. Cf. also Christopher Allmand, *The Hundred Years War*, Cambridge 1988.

On the Wars of the Roses, for a critique of the notion of the self-extermination of the 'old nobility' see K. Bruce McFarlane 1973, pp. 15 ff. For a summary of the recent state of research on this critique: Margaret Aston, 'Richard II and the Wars of the Roses', in F.R.H. Du Boulay and Caroline M. Barron (eds.), *The Reign of Richard II*, London 1971, pp. 280–317; also J.R. Lander 1976, pp. 57 ff. Recommended as more recent good presentations are R.L. Storey, *The End of the House of Lancaster*, London 1966; Anthony Goodman, *The Wars of the Roses*, London/Boston/Henley 1981 (the introduction contains a good depiction of the changing interpretation of the Wars of the Roses). More in the vein of traditional historiography, still alive and well in 1973, is Clifford Lindsay Alderman, *Blod-Red the Roses*, Folkestone 1973.

#### *'Retaining', livery and maintenance*

Most fundamentally, K. Bruce McFarlane 1945; idem 1981 (especially also the introduction by G.L. Harris); also J.R. Maddicott, 'Law and Lordship: Royal Justices as Retainers in Thirteenth- and Fourteenth-Century England', in *Past and Present*, Supplement 4, 1978; G.R. Lander 1980, pp. 337 ff.; idem 1976; J.M.W. Bean, 'Bachelor and Retainer', in *Medievalia et Humanistica*, 3, 1972: 117–31. On the importance of the Wars of the Roses for *retaining* and the stabilising of the professionalisation of the military trade: A. Goodman 1981, pp. 222 ff. An excellent monograph is Nigel Saul, *Knights and Esquires. The Gloucestershire Gentry in the Fourteenth Century*, Oxford 1981 (see, in particular, the chapter 'Lords and Retainers', pp. 82 ff.); cf. also Ralph A. Griffiths, 'Patronage, Politics and the Principality of Wales 1413–1461', in Harry Hearder and H.R. Loyn (eds.), *British Government and Administration*, Cardiff 1974, pp. 69–86; A. Cameron, 'The Giving of Livery and Retaining in Henry VII's Reign', in *Renaissance and Modern Studies*, 18th year, 1974: 17–35.

#### *Offices and patronage*

For an overview as well as a good analysis: Karl Schmith, 'Zum Problem des Ämterkaufs in England vom 12. zum 14. Jahrhundert', in Ilja Mieck (ed.), *Ämterhandel im Spätmittelalter und im 16. Jahrhundert*, Berlin 1984, pp. 183–95; in the same volume: R.L. Storey, 'England: Ämterhandel im 15. und 16. Jahrhundert', pp. 196–207. Also Ralph A. Griffiths (ed.), *Patronage, the Crown and the Provinces*, Atlantic Highlands/Gloucester 1981, especially the essay by M. Cherry, 'The Struggle for Power in Mid-Fifteenth Century Devonshire', pp. 123–44; F.R.H. Du Boulay and C.M. Barron (eds.) 1971, in which particularly important in the present connection is J.A. Tuck, 'Richard II's System of Patronage', pp. 1–20; also in the same volume R.L. Storey, 'Liveries and Commissions of Peace', pp. 131–52; R. Harrox, 'Urban Patronage and Patrons in the Fifteenth Century', pp. 145–66. Generally on the same subject: J.A. Tuck 1974). Referring to patronage, Lander describes the court as the 'stock exchange of the day': J.R. Lander 1980, p. 248. The fact that the crown estates were more important for patronage than for direct income is emphasised by B.P. Wolffe, *The Crown Lands 1461–1536*, London 1970, pp. 1–28. Penry Williams, *The Tudor Regime*, Oxford 1979.

*Constitution of the lower nobility (p. 95)*

The following work remains fundamental: George Reresby Sitwell, 'The English Gentleman', in *The Ancestor*, 1, 1902: 58–103. (I draw on Sitwell especially for information about heraldry.) The long unity of the nobility (despite a gradual reinforcement of social hierarchy) is stressed by J.R. Lander 1976, p. 15; idem 1980, p. 43; K.B. McFarlane 1973, p. 6. For Lander, this unity stretches into the sixteenth century, for McFarlane into the seventeenth. It is still to be found, however, in the text written by Daniel Defoe in 1729–30, *The Compleat English Gentleman*, edited by Karl Bülbiring, London 1972 [1890], especially pp. 35, 62. Joel Hurstfield, on the other hand, maintains that the gentry never developed into a lower nobility: J. Hurstfield, *Freedom, Corruption and Government in Elizabethan England*, London 1973, p. 324. The contrary view is also convincingly presented in a comparative analysis by M.L. Bush 1984, Parts 1 and 2.

*Generally on the constitution of the gentry*

There is not yet a study corresponding to K. Bruce McFarlane's on the emergence of the high nobility. This is also stressed by G.L. Harris in his introduction to K. Bruce McFarlane 1981. A survey of the state of research at that time is given in G.E. Minagay, *The Gentry. Rise and Fall of a Ruling Class*, London/New York 1978; similarly M.L. Bush 1984; J.A.F. Thomson 1983 (especially on the number of knights, p. 116, and on the reinforcement of status in the fifteenth century, p. 111). M. Yass 1964 is highly descriptive.

*The gentry as the result of a decline*

K.B. McFarlane 1973), p. 275.

*The gentry as result of the consolidation of a possessing estate*

The subsequent consolidation of possession by the knightly classes was preceded by their redefinition resulting from the increased costs of equipment and the ensuing new determination of the knight's fee. The fundamental study of this development is that of Sally Harvey, 'The Knight and the Knight's Fee in England', in *Past and Present*, 49, 1970. That both the baronial and knightly classes gained increased wealth during the long period of peace in the reign of Henry I, by way of 'peaceful' forms of appropriation, is emphasised by Frank Merry Stenton, *The First Century of English Feudalism. 1066–1166*, Westport 1960 [1950], p. 81. There is a detailed debate in the literature as to whether the knightly classes of the thirteenth and subsequent centuries were faced with a crisis of their material reproduction. I refrained from dealing with this subject, but will refer here to some important works for the competing views. The existence of this crisis is upheld by M.M. Postan 1971, pp. 592–4; Rodney M. Hilton, *A Medieval Society: The West Midlands at the End of the Thirteenth Century*, London 1966, pp. 49 ff.; P.R. Cross, 'Sir Geoffrey de Langley and the Crisis of the Knightly Class in Thirteenth Century England', in *Past and Present*, 68, 1975. For the opposing view see D.A. Carpenter, 'Was There a Crisis of the Knightly Class in the Thirteenth Century? The Oxfordshire Evidence', in *English Historical Review*, 377, 1980: 720–51. (Carpenter criticises – convincingly in my view – the empirical basis of the crisis thesis, showing that downward mobility is matched by upward.) J.R. Lander 1980, p. 12, stresses that the end of the desmesne economy did not necessarily have to lead to a loss of income.

The further development of the relative wealth of the gentry is another point I do not discuss, and there are few studies of this. What is particularly unclear is how the losses arising from the decline in the purchasing power of money in the fourteenth and fifteenth centuries were divided between the high nobility on the one hand and the gentry on the other. (It may well have been that the gentry, who relied less on the purchase of services for the reproduction of their existence as lords, were relatively less affected by this development.) A.R. Bridbury 1975, pp. xxiii ff. For Gloucester, Saul offers a figure for the number of retainers as well as a study of the material involvement of the gentry in the appropriation of the high nobility: N. Saul 1981; this work is important for all the questions discussed in this Section.

*The development of the gentry in connection with the practice of generalised power*

On the 'distrainment of knighthood' and the transformation of knightly status into a function of possession of land: H.G. Richardson and G.O. Sayles, *The Governance of Medieval England from the Conquest to Magna Carta*, Edinburgh 1963, pp. 129–35. On the limitation of the territorial rule of both crown and magnates in the mid thirteenth century: J.R. Maddicott, 'Magna Carta and the Local Community 1215–1259', in *Past and Present*, 102, 1984: 25–65.

*The development and importance of the Commons*

I largely follow here the interpretation of G.O. Sayles 1975. That the Commons, despite its policies being decisively marked by the overlord-tenant relationship, was by no means a mere appendage of the House of Lords, is emphasised by K.B. McFarlane 1973, pp. 289–96. And that the knights of the shire on the other hand had no interests that were exclusively specific to their estate is demonstrated by George Holmes, *The Good Parliament*, Oxford 1975, p. 136 & passim; See also: J.O. Roskell, *The Commons in the Parliament of 1422*, Manchester 1954.

*The change in significance of the office of sheriff*

J.R. Lander 1980, pp. 35 ff.; J.G. Bellamy 1973, pp. 89–94.

*The introduction of Justices of the Peace*

This institutional development is depicted in detail in J.G. Bellamy 1973, pp. 94–8, also by J.R. Lander 1980, pp. 31 ff. On the struggles over the enforcement and material benefit of the Statute of Labourers: B.H. Putnam 1908. On the decisive conflicts in respect to the Justices in the reign of Richard II: K. L. Storey, in F.R.H. Du Boulay and C.M. Barron (eds.) 1971, pp. 131–52. (This volume also contains a comprehensive regional analysis by Roger Virgoe, 'The Crown and Local Government: East Anglia under Richard II', pp. 218–41.) On the importance of the institution of Justices: J.R. Lander 1980, pp. 3 ff. Especially thorough on the dual structure of general right and arbitrary power is Christine Carpenter, 'Law, Justice and Landowners in Late Medieval England', in *Law and History*, 2, 1, 1983: 205–37.

*The emergence of the estate habitus of the gentry*

F.R.H. Du Boulay, *An Age of Ambition*, London 1970, pp. 66–76. (This discusses the 40 pound criterion, as well as sumptuary laws and the ban on 'excessive array'.) John Smith Roshell, *The Commons in the Parliament of 1422*, Manchester 1954. On the education of sons (who in the fifteenth century were often sent to university for just one year, and so did not have the possibility of acquiring a degree): J.R. Lander 1980, p. 150. On the spread of books in English: P.R. Coss, 'Aspects of Cultural Diffusion in Medieval England', in *Past and Present*, 108, 1985: 35–79 (an essay whose relevance for cultural history goes beyond the present subject).

a.3. *Refoundation of generalised personal power (p. 105)*

Fundamental texts on the structural change are K.B. McFarlane 1945, p. 161; the introduction by G.L. Harris to K.B. McFarlane 1981; also (clearly in the wake of McFarlane) J.R. Lander 1980.

*The development of royal fiscal power*

The works of G.L. Harris are fundamental here, both 1985 and 'Aids, Loans and Benevolences', in *Historical Journal*, 6, 1963: 1–19; idem, 'Theory and Practice in Royal Taxation: Some Observations', in *English Historical Review*, 97, 1982: 811–19. Also of fundamental importance on the development of 'taxation' (a systematic separation between taxes and dues is possible at the earliest under Edward I): J.R. Lander 1980, pp. 74 ff.; and in a generalising sense, J.A.F. Thomson 1983, Section 29.

*The conflict over 'pardons' in the fifteenth century*

R.L. Storey 1966, Appendix II, pp. 210–16; J.G. Bellamy 1973, Chapter 6.

work (though now superseded in details) remains G.C. Cruickshank, *Elizabeth's Army*, Oxford 1966 [1946] (cited after the Oxford 1968 edition).

*The militia*

The best presentation is Lindsay Boynton, *The Elizabethan Militia. 1558–1638*, London/Toronto 1967; also G.C. Cruickshank 1966 [1946].

*On the purchase of officer commissions*

Anthony Bruce, *The Purchase System in the British Army*, London 1980. (Though this work is principally concerned – due to the availability of sources – with developments in the eighteenth and nineteenth centuries, Bruce critically points out how Cruickshank's standard work on the Elizabethan army fails to address this issue. Bruce also offers an exact depiction of the recruitment procedures via 'letters of service' as well as of the opportunities of profit for the crown's private contractors.) The synoptic *History of the British Army*, edited by Peter Young and J.P. Lawford, London 1970, also offers in the first chapter (written by Young) a depiction focusing on armed acquisition as well as the organisation of military force in the early-modern period.

*The decline of 'quasi-feudal' recruitment practices*

Jeremy Goring, 'Social Change and Military Decline in Mid-Tudor England', in *History*, 60, 1975: 185–197. For a general study of military changes (which Roberts holds – p. 20 and passim – were the cause also of political changes): Michael Roberts, *The Military Revolution 1560–1600*, Belfast 1956. On Elizabeth's military policy and specific strategic plans in the conditions of a limited disposal of armed force, cf. R.B. Wernham, 'Elizabethan War Aims and Strategy', in S.T. Bindoff, J. Hurstfield and C.H. Williams (eds.), *Elizabethan Government and Society* (a Festschrift for Sir John Neale), London 1961, pp. 340–68. On the organisation of class-based armed force under the impulse of the great peasant uprising of Edward VI's reign (and thus generally for the structural conditions of armed force): Julian Cornwall, *Revolt of the Peasantry 1549*, London 1977, p. 7 & passim. Details on the organisation and deployment of armed force can be found in the following biographical studies: C.G. Cruickshank, *Army Royal, Henry VIII's Invasion of France 1513*, Oxford 1969, and especially Charles Carlton, *Charles I*, London 1983.

*The development of the navy and the use of privateers*

A comprehensive presentation is P. Williams 1979, Part 1, Section 4. Also Elaine W. Fowler, *English Sea Power in the Early Tudor Period, 1485–1568*, Ithaca, NY 1965; Kenneth R. Andrews, *Elizabethan Privateering*, Cambridge 1964; Garrett Mattingly, *The Armada*, London 1959.

*On the duty of the clergy*

J.J.N. McGurk, 'The Clergy and the Militia 1580–1610', in *History*, 60, 1975: 198–210.

*Religious power (p. 124)*

*The Lollards and other pre-Reformation critics of the church*

Arthur Geoffrey Dickens, *The English Reformation*, London 1968 [1964], Chapter 2–5; Claire Cross, *Church and People 1450–1660*, Glasgow 1979 [1976], Chapter 2. For a summary of more recent literature: John A.F. Thomson, *The Transformation of Medieval England, 1370–1529*, Harlow/New York 1983, Section 40. For a critique of the interpretation of the Lollards as precursors of the Reformation, and especially of the derivation of Lollardism from Wycliffe: Margaret Aston, 'John Wycliffe's Reformation Reputation', in *Past and Present*, 1965: 23–51.

*The Henrician Reformation*

For the course of separation from Rome, especially the specific legal regulations: Alan G.R. Smith, *The Emergence of a Nation State*, London/New York 1984, Chapter 1; Geoffrey R. Elton 1977; idem, *Policy and Police*, Cambridge 1972; A.G. Dickens 1968; C. Cross 1979; P. Williams 1979, Chapter 8. For the king's motivations as well as the progress and implementation: J.J. Scarisbrick, *Henry VIII*, London 1968, Chapters 7–10 & 12. On decisions made after the break with Rome: Stanford E. Lehmborg, *The Later Parliaments of Henry VIII, 1536–1547*, Cambridge 1977, especially pp. 184 ff.

*The interpretation of the Reformation as a political event*

G.R. Elton 1977; idem 1972; idem, 'The Tudor Reformation: A Reply', in *Past and Present*, 29, 1964: 26–49. For a critique of this position (the object of Elton's rejoinder): P. Williams and G.L. Harris 1963, pp. 3–57; idem, response to Elton in *Past and Present*, 31, 1965: 87–96.

*The thesis of the 'long Reformation'*

Christopher Haigh (ed.), *The Reign of Elizabeth I*, Basingstoke/London 1984 (this includes essays by Haigh and P. Collinson); idem, *Reformation and Reaction in Tudor Lancashire*, London 1975; idem, 'Some Aspects in Recent Historiography of the English Reformation', in W.J. Mommsen (ed.), *The Urban Classes, the Nobility and the Reformation*, London 1980, pp. 88–106; Margaret Bowker, *The Henrician Reformation*, Cambridge 1981; J.J. Scarisbrick, *The Reformation and the English People*, Oxford 1984; Patrick Collinson, *The Religion of Protestants*, Oxford/New York 1982; Claire Cross, 'Priests into Ministers: The Establishment of Protestant Practice in the City of York 1530–1630', in Peter N. Brooks (ed.), *Reformation. Principle and Practice*, London 1980, pp. 203–27.

*Change in cultural practices*

Charles Pythian-Adams, 'Ceremony and the Citizen: The Communal Year at Coventry 1450–1550', in Peter Clark and Paul Slack (eds.), *Crisis and Order in English Towns 1500–1700*, London 1972, pp. 57–85.

*Acts of resistance*

All works listed for the sub-section on the 'long Reformation', as well as P. Williams 1979, pp. 322–4; Keith Thomas, *Religion and the Decline of Magic*, Harmondsworth 1973 [1971] (and subsequent editions).

On the significance of patronage for the implementation of the Reformation, M. Bowker 1981, p. 171. On the significance of generational conflict for the implementation of the Reformation: Susan Bridgen, 'Youth and the English Reformation', in *Past and Present*, 95, 1982: 37–67. On the revised interpretation of the reign of Queen Mary (also a critique of a position previously maintained on the 'mid-Tudor crisis'), C. Haigh (ed.) 1984, introduction; J.J. Scarisbrick 1984, p. 136 ff.; Peter Clark, *English Provincial Society from the Reformation to the Revolution: Religion, Politics and Society in Kent 1500–1640*, Hassocks 1977, p. 151. On varying views of the emergence of the Elizabethan religious settlement: A.G.R. Smith 1984, p. 110. On the persecution of 'recalcitrants' and Catholics (the two things are not identical, since not all who refused to attend divine office or take the sacrament were Catholics), a detailed summary of the literature is provided by Caroline M. Hibbard, 'Early Stuart Catholicism: Revisions and Re-Revisions', in *Journal of Modern History*, 52, 1980: 1–34. Cf. also the standard work on English Catholicism: John Bossy, *The English Catholic Community, 1570–1850*, London 1975; also P. Williams 1979, Chapter 8. For the reign of Henry VIII: G.R. Elton 1972, Chapters 3–9.

*Puritanism*

Though most authors date the origins of 'Puritanism' (a term which originally was pejorative) to the reign of Elizabeth I, seeing it as provoked by the moderate religious settlement, Knappen equates the beginnings of Puritanism with those of the Reformation itself: M.M. Knappen, *Tudor Puritanism* [1939], Chicago/London 1965. My own presentation follows the interpretation of P. Collinson 1982, Chapter 6, and the same

author's contribution to C. Haigh 1984: pp. 169–94. On Puritanism as a movement for the moralisation of public life: William Haller, *Liberty and Reformation in the Puritan Revolution*, New York/London 1955, p. xi; also Geoffrey F. Nuthall, *The Puritan Spirit*, London 1967, Chapters 1 & 10; A.G.R. Smith 1984, pp. 147 ff. Further: Tawney 1938 (see below).

*Change in the social position of bishops and their exercise of rule*

Lacey Baldwin Smith, *Tudor Prelates and Politics*, Princeton, NJ 1953; P. Collinson 1982, Chapter 2; also H.R. Alexander, *Religion in England, 1558–1662*, London 1968, p. 30. Generally on the changing social position of the clergy: P. Collinson 1982, Chapter 3; D.M. Palliser, *The Age of Elizabeth*, Harlow/New York 1983, Chapter 11; H.G. Alexander 1968, Section 2; Claire Cross, in P.N. Brooke (ed.) 1980: pp. 203–26.

*Church courts*

On the practice of ecclesiastical jurisdiction, informed by an assessment of sources from the archdeaconry of Essex in particular: F.G. Emmison, *Elizabethan Life: Morals and the Church Courts*, Chelmsford 1973; on conditions of practice: P. Williams 1979, Chapter 8; P. Collinson 1982, especially Chapter 4.

*Calvinism, revolution and capitalism*

Max Weber, *The Protestant Ethic and the Spirit of Capitalism*, London 1965 [1920]; David Little, *Religion, Order and Law*, Oxford 1970. (Little criticises both Max Weber and his critics. His view is that Weber overemphasised the relation of the *individual* to the contents of belief, and this error was continued by his critics. Little for his part highlights church *organisation*, i.e. the institutional context, which is where the relationship of the believers to the theological content of their belief is established. This is satisfactory as an approach to studies in religious history, but less fruitful as a contribution to the discussion of Weber's theory, since Little interprets Weber in the customary fashion as a historian.) Particularly important in England for discussion of the thesis of the connection between Puritanism and capitalism has been Richard Henry Tawney, *Religion and the Rise of Capitalism*, Harmondsworth 1938 (many subsequent editions). Tawney saw Puritanism above all as providing the ability to criticise the old order. His work however is generally discussed as a concretisation of Weber's own position. Cf. also Christopher Hill, *Society and Puritanism in Pre-Revolutionary England*, London 1966. Revolutionary tendencies are also emphasised by Michael Walzer, *The Revolution of the Saints*, London 1966. For a critique of the interpretation of Hill and Tawney, see Robert Ashton, 'Puritanism and Progress', in *Economic History Review*, 2nd series, 17, 1964/65: 579–87, also P. Collinson 1982, Chapter 6.

*Sanctioning of conditions of appropriation by ruling power (p. 136)*

For the thesis that the 'feudal' state, and accordingly also the 'late-feudal' or 'early-modern' state, should be generally interpreted as an instance of appropriation, see Robert Brenner, 'Agrarian Class Structure and Economic Development in Pre-Industrial Europe', in *Past and Present*, 97, 1982, p. 40.

*The 'structural change in the countryside'*

Fundamental for the theoretical elaboration of this question is John E. Martin, *Feudalism to Capitalism*, London/Basingstoke 1983. For a summary presentation of the state of research: C.G.A. Clay, *Economic Expansion and Social Change: England 1500–1700*, London 1984, Volume 1, Chapters 1–5 (with a partly demographic orientation of his own interpretation). For the first half of the sixteenth century: D.M. Palliser 1983, Chapter 6 (stresses the great regional differences). Also W.G. Hoskins, *The Age of Plunder*, London 1976, Chapter 3.

For the debate on enclosure and the protection of copyhold tenures, the starting-point of many discussions is R.H. Tawney, *The Agrarian Problem in the Sixteenth Century*, New York 1967 [1912] (describes the change as a process of capitalisation, pursued in particular by the gentry; enclosure as a cause of poverty). For a summary of the state



of research, also stressing the great regional differences and the fact that enclosures can not universally be regarded as the cause of impoverishment: Joan Thirks, *The Rural Economy of England*, London 1984. An important critique of Tawney's view is Eric Kerridge, *Agrarian Problems in the Sixteenth Century and After*, London/New York 1969 (copyhold a better protection than tenure 'at will', p. 88; on the development of such protection, initially by way of equity, but by the start of the seventeenth century giving the same protection as enjoyed by freeholders, p. 164). For the outcome: S.F.C. Milsom, *Historical Foundations of the Common Law*, 2nd edn., London 1981, p. 165. My own emphasis on the limitation of protection by preceding customs follows J.E. Martin 1983; cf. here also R. Brenner 1982, p. 86. An earlier special study is E.M. Leonard, 'The Inclosure of Common Fields in the Seventeenth Century', in Eleonor Mary Carus-Wilson (ed.), *Essays in Economic History*, Volume 2, London 1966, pp. 227–56.

*Agrarian policy under Somerset (Henry VI)*

Julian Cornwell, *Revolt of the Peasantry 1549*, London/Henley/Boston 1977 (rigorous implementation of the ban on enclosures, pp. 36–7; Ket's rebellion).

*Development of the crown's power of appropriation*

On the feudal form of appropriation (a synoptic presentation, but not well elaborated theoretically): J.A.F. Thomson 1983, Part 4. For a systematic treatment of the change in feudal reversions and the development of practices to evade these: S.F.C. Milsom 1981, Chapters 3–5, and especially Chapter 9. On the Court of Warde: J. Hurstfield, *Freedom, Corruption and Government in Elizabethan England*, London 1973, Chapter 6. Cf. also by the same author, 'The Profits of Fiscal Feudalism, 1541–1602', in *Economic History Review*, Volume 8, 1955–6: 53–61. The most detailed discussion of particular aspects is B.P. Wolffe, *The Crown Lands 1461–1536*, London 1976.

*The exercise of power and its effects on the implementation of agrarian and manufacturing policy decisions of the government*

For the development of the historiography of 'Tudor despotism' (and its critique): Joel Hurstfield 1973. (Hurstfield agrees that this 'despotism' did not actually exist, but he does not base this view on the social foundations of the government, only on the forms of politics.) The most thorough work on all questions of detail here is P. Williams 1979. For government by way of 'persuasion' and patronage: A.G.R. Smith, *The Government of Elizabethan England*, London 1967, p. 57. On the private basis of measures of economic regulation: Robert Ashton, *The City and the Court, 1603–1643*, Cambridge 1979, passim. (This work is especially important for information on conflicting interests and for its critique of the idea that there was such a thing as a 'bourgeois' interest.) Generally for the fiscal power of the crown as a material barrier to private participation in centralised appropriation: J. Hurstfield 1973, Chapter 6. Cf. S.B. Chrimes 1967 on excise regulations, p. 104; on the Statute of Benevolences of 1484 and on loans, p. 104; on the bonds demanded in particular by Henry VII, as well as on obligations and recognisances in general, p. 312. Also Lawrence Stone, *The Crisis of the Aristocracy, 1558–1641*, Oxford 1965, p. 268. An informative chapter especially on the situation under the reign of James I is found in Charles Wilson, *England's Apprenticeship, 1603–1763*, London 1975 [1965], Chapter 5. On the general state of research: C.G.A. Clay 1984, Volume 2, Chapter 11, pp. 251–62. On devaluation of coinage under Henry VIII as a means of obtaining money (to which contemporaries attributed the beginning of inflation; subsequently the crown shied away from this means): Whitney R.D. Jones, *The Mid-Tudor Crisis 1539–1563*, London/Basingstoke 1973, pp. 127 ff. On the relative decline in the economic power of the crown in relation to that of the nobility: G.E. Mingay, *The Gentry. The Rise and Fall of a Ruling Class*, London/New York 1978 [1976], pp. 59 ff.

*The development of manufacturing production and internal trade*

I refrained from any detailed presentation of general economic development, which cannot be discussed entirely in the perspective of sanctioning by power. Some references are given here.

*The decline of some old towns and the rise of new ones*

P. Clark 1977, p. 8; Charles Pythian-Adams, 'Urban Decay in Late Medieval England', in Philip Abrams and E.A. Wrigley (eds.), *Towns in Societies*, Cambridge 1980 [1976], pp. 159–86. Synoptic presentation of the development of manufacturing production and internal trade: D.M. Palliser 1983, Chapters 7 & 8. A good presentation of the state of research for the entire period under discussion here is C.G.A. Clay 1984, Volume 2, Chapter 8. More in textbook mode: J.A. Chartres, *Internal Trade in England 1500–1700*, London 1977.

*The development of external trade and colonial enterprises*

A fundamental work to be highly recommended is Kenneth R. Andrews, *Trade, Plunder and Settlement*, Cambridge 1984. (This author makes it particularly clear how many overseas trading enterprises and settlement attempts were only seen in retrospect as beginnings of an English colonial policy, being in actual fact the repetition of less successful undertakings. He dates the beginnings of profitability of some of the 'outports' only from the start of the seventeenth century.) A brief textbook account of the state of research is Ralph Davies, *English Overseas Trade 1500–1700*, London/Basingstoke 1973. For more detail: W.G. Hoskins 1976, Chapter 8; C.G.A. Clay 1984, Volume 2, Chapter 9.

*Privateering*

W.G. Hoskins 1976, p. 185; K.R. Andrews 1964. A special study of the shipping capacity of the early Tudors, important for the material it presents despite a number of weaknesses, is E.W. Fowler 1965. (For example, on p. 16 this author ascribes the 'instinct' for trade to the Norman inheritance. On the other hand, we learn that in the years 1547–58 the number of ships fell from 80 to 26, as the crown sold its new ships to provide cash, p. 46.)

*The changing structures of appropriation of the nobility*

I have not cited in the text references to the literature of a long and controversial debate, nor even offered a considered presentation of the state of research. See for this C.G.A. Clay 1984, Volume 1, Chapter 5. Some particular examples are assessed in detail in John Habbakuk, 'The Rise and Fall of English Landed Families, 1600–1800' (three essays), in *Transactions of the Royal Historical Society*, vols. 29, 30, 31, 1979, 1980, 1981. For thorough study of some exemplary families (and especially references to the different sources of income, i.e. law, trade, court, land): Alan Simpson, *The Wealth of the Gentry, 1540–1660*, Chicago/Cambridge 1961. A summary of works on the gentry is given by Julian Cornwall, 'The Early Tudor Gentry', in *Economic History Review*, 2nd series, 17, 1964/65: 456–71. On courtiers' appropriation by introduction at court (also on 'favours' including pensions): W.T. MacCaffrey, 'Place and Patronage in Elizabethan Politics' in S.T. Bindoff, J. Hurstfield and C.H. Williams (eds.), *Elizabethan Government and Society*, London 1961, p. 114. (According to MacCaffrey, income from offices was always small, p. 115.) Also on income from offices: G.E. Aylmer, *The King's Servants*, London/Boston 1974 [1961], Chapter 4.

*Patronage*

Short and somewhat simplifying: Derek Hirst, *Authority and Conflict, England 1600–1658*, London 1986, pp. 30–3. Differentiated and far more informative: A.G.R. Smith 1984, Section 14. On the defence of structures of patronage against 'favouritism': W.T. MacCaffrey, in Bindoff et al. (eds.) 1961, pp. 118 ff. On the practice of patronage in general: L. Stone 1965, *passim*.

*Participation in centralised rule through power of office*

J. Hurstfield 1973, Chapter 10 (deals here with the difference from France). That only a small portion of the gentry participated in office power: J. Cornwall 1964/65, p. 469. (Cornwall describes the better-placed, office-holding gentry as a 'corps d'élite'.) The outstanding work on this subject, though its subtitle refers only to the reign of Charles

I, frequently extends to the entire period under discussion here: G.E. Aylmer 1974. Aylmer also offers a brief characterisation of the particular structures of personal office power which is highly recommended: G.E. Aylmer, 'From Office-Holding to Civil Service. The Genesis of Modern Bureaucracy', in *Transactions of the Royal Historical Society*, 30, 1980: 91–108. On tax farming, see especially R. Ashton 1979, p. 31. On the sale of offices: G.E. Aylmer 1974; J. Hurstfield 1973, pp. 313 ff. For the criticism of 'monopolies' and patents: idem, Chapter 10; Charles Carlton, *Charles I*, London 1983, pp. 193 ff.; C. Haigh 1984, pp. 135 ff.

*Reproduction of the ruling estates (p. 150)*

*The subject in general*

The two most important publications of recent years do not confine themselves to the period under discussion in this section. The first is M.L. Bush, *The English Aristocracy*, Manchester 1984. (Here, as in all his works, Bush compares the English nobility with other contemporary noble estates. He sees the unity of the English nobility as entirely clear, with no question about assessing the gentry as a lower nobility. On this point, I agree with him, as on many questions of detail. On the other hand, Bush stresses the similarity between the English nobility and continental ruling estates. He sees this as consisting principally in the fact that the English nobility, just like the continental, formed 'the ruling class of an agricultural society' (p. 5). This is undoubtedly significant, but it neglects the specific conditions of reproduction of the status of lord that are particularly emphasised in the present study. Bush's systematic work, however, is to be highly recommended.) Cf. also Lawrence Stone and Jeanne C. Fawtier Stone, *An Open Elite? England 1540–1880*, Oxford 1984. (On the basis of three very different regions, these authors present a comprehensive empirical study that, however its results are assessed at the level of detail and may be partly corrected by later investigation, has raised the debate over the gentry to a new level. This work focuses not on the 'parish gentry', but solely on those higher ranks of the gentry that increasingly closed themselves off to new entrants from the end of the seventeenth century. These higher gentry, along with the peerage and baronetcy, are analysed as an élite of possession, status and power. The authors take ownership of a country seat as criterion of membership. In my view, however, the Stones are mistaken in their notion of the 'élite', since there were no criteria of membership of the squirearchy that were sanctioned by power – see below. They accordingly select an analytical instrument that does not permit the social specificity of the form of power, i.e. the distinctions between estate and class-based power, to be grasped analytically. In France, for example, despite the 'abolition' of the nobility by the French Revolution, many families with noble names and a country seat subsequently regained power and respect. The continuity of such 'élite' positions after a temporary interruption, however, does not in any way refute the revolutionising of a considerable part of the conditions for obtaining social respect and influence that had taken place in the meantime. In England, the situation was different, and here the outward characteristic of a country seat generally does give an adequate point of departure.) A further general work on this subject, though less satisfactory from an analytical point of view, is Marion Yass, *The English Aristocracy*, London 1974, especially here pp. 1–70. (For this author, the 'aristocracy' was a clearly separate 'class' right from 1066, p. 8.)

On the question of social mobility, as well as the distinction between status and rank, see two contributions from the discussion in *Past and Present*: Lawrence Stone, 'Social Mobility in England 1500–1700', in *Past and Present*, 33, 1966: 16–55; Alan Everitt, 'Social Mobility in Early Modern England', in *Past and Present*, 33, 1966: 56–73. Any thorough engagement with this subject should not overlook two readily accessible contemporary texts: *Harrison's Description of England in Shakespeare's Youth*, Books 2 and 3 [1577] edited by Fredrick J. Furnivall, London 1965 [1877]; Thomas Smith, *De Republica Anglorum*, Menston 1970 [1583]. A summary of the state of research – in parts superseded by the more recent works cited above – is P. Williams 1979, Chapter 13. For

information on the entire status hierarchy, i.e. not just the ruling estates, particularly informative is D.M. Palliser 1983, Chapter 3, and still more so Keith Wrightson, *English Society 1580–1680*, London 1982, Part 1, Sections 1 & 2.

*The concept of 'yeoman'*

At an earlier time this meant someone with a freehold tenure to a value of at least 40 shillings annual income, who was authorised on this basis to take part in the elections to Parliament. By the eighteenth century at the latest, however, the term had become separated from the form of tenure, and related to the size of holding (different standards being applied according to region). Not all well-to-do farmers and peasants, however, held to this old-fashioned description of status. Cf. K. Wrightson 1984, pp. 31–2; D.M. Palliser 1983, pp. 71–2. According to Underdown, not every yeoman was even a freeholder. He defined yeomen as 'men of standing in their communities' (D. Underdown, 1985, p. 24).

*The concept of 'squirearchy'*

Contemporaries used this term, from the late seventeenth century onwards, to denote the higher ranks of the gentry and the higher nobility. The scope of the term coincides with the Stones' proposed notion of elite. Cf. their more detailed explanations in Stone & Stone 1984, p. 11 and *passim*.

*Urban positions of rule and status*

On the increasingly oligarchical structures in the towns, cf. Peter Clark and Paul Slack (eds.), London 1972, introduction, p. 25 & *passim*. The unity of the London oligarchy is stressed by P. Williams 1979, p. 450, though the opposite is convincingly argued by R. Ashton 1979, p. 12 & *passim*. On the connection of the crown's policy to the power and status positions of particular urban corporations, cf. also David Harris Sacks, 'The Corporate Town and the English State: Bristol's Little Businesses 1625–1641', in *Past and Present*, 110, 1986: 69–105.

*On the status of the senior clergy*

Christopher Hill, *Economic Problems of the Church*, Oxford 1968 [1956], especially pp. 215–16; Patrick Collinson, *The Religion of Protestants*, Oxford 1982, p. 41 (on increased respect and relative impoverishment, pp. 73, 92). Also L. Stone 1966, pp. 19–21; H.G. Alexander 1968, pp. 32–3.

*The inflation of the knightly estate under Elizabeth*

D.M. Palliser 1983, pp. 67–71; G.R. Smith, *The Government of Elizabethan England*, London 1967, p. 58. For the claim that the crown did not 'make' nobles, but rather sanctioned an acquired social status: M.L. Bush 1984, p. 18 & *passim*; Mervyn James, 'English Politics and the Concept of Honour 1485–1642', in *Past and Present*, Supplement 3, 1978, p. 22 & *passim*. On the correspondence between hierarchies of wealth and rank (and exceptions from this): A. Everitt 1966. On the granting of titles under Elizabeth: A.G.R. Smith 1967, p. 58; Wallace T. MacCaffrey, 'Place and Patronage in Elizabethan Politics', in S.T. Bindoff, J. Hurstfield and C.H. Williams (eds.) 1961, especially pp. 102–3; J. Hurstfield 1973, Chapter 10. On the inflation of titles under the Stuarts: G.E. Mingay 1976: 4–5; K. Wrightson 1982, pp. 23–4; L. Stone 1965, Chapter 3; R.H. Tawney, *The Rise of the Gentry, 1558–1640*, London 1955 [1941], p. 202; H.R. Trevor-Roper, 'The Gentry, 1540–1640', in *Economic History Review*, Supplement 1–4, 1953: 9–11; M. Yass 1974, p. 56.

*The privileges of the nobility*

Unsurpassedly meticulous, and especially important also for its assessment of the content of privileges in comparison with those of continental ruling estates: M.L. Bush 1984, Chapter 2.

*The cultural transformation of the nobility*

In general: M. James 1978; G.E. Mingay 1978, p. 17; K. Wrightson 1984, p. 193; J.T. Cliffe, *The Puritan Gentry*, London 1984. On demilitarisation: M. James 1978, cf. p. 13 on duelling; L. Stone 1965, especially pp. 268–70. On education: Joan Simon, 'The Social Origins of Cambridge Students 1603–1640', in *Past and Present*, 26, 1963: 58–67; P. Clark 1977, Chapter 6; L. Stone 1966, pp. 46–8; L. Stone and J.C. Fawtier Stone 1984, pp. 262–6; W.T. MacCaffrey 1965, pp. 62–3. On hospitality: Felicity Heal, 'The Idea of Hospitality in Early Modern England', in *Past and Present*, 102, 1984: 66–93; J.T. Cliffe 1984, Chapter 6; L. Stone and J.T. Fawtier Stone 1984, p. 185 & passim; C.G.A. Clay 1984, Volume 2, p. 5; D. Hirst 1986, pp. 50–1.

*The definition of 'plain gentleman'*

J. Cornwall 1964/1965, pp. 470–1. Alan Simpson points out that the partial 'loss of status' of the (former) 'plain gentleman' did not involve an economic decline: A. Simpson 1961, p. 212. On the advance of the 'bourgeois' into the privileges of gentlemen: M.L. Bush 1984, p. 18; C.G.A. Clay 1984, Volume 2, p. 27.

*The thesis of an open gentry*

The 'classical view' is clearly represented by G.E. Mingay 1978, pp. 5 ff. & passim; Charles Wilson, *England's Apprenticeship 1603–1763*, London 1975 [1965], pp. 9–11. It is usual to also cite in this connection Thomas Smith 1970 [1583], who asked (pp. 26–8) 'wether the maner of England in making gentlemen so easily is to be allowed'. Smith did not discuss in any detail, however, whether such strategies of advance were automatically successful, but rather the fact that they were without cost for the king (p. 28). If someone claimed a status to which he was not entitled, no one was 'hurt by it but he himselfe, who hereby perchance will beare a bigger saile than he is able to maintaine' (p. 29). Whilst P. Williams 1979 maintains that the gentry around 1600 were more closed than they later became (pp. 451–2), A. Everitt 1966 advances precisely the opposite position, emphasising in particular the downward mobility of younger sons in the seventeenth century (pp. 56–73). For figures: K. Wrightson 1982, pp. 26–7.

*The 'county gentry'*

See in particular L. Stone and J.C. Fawtier Stone 1984; Peter Clark, *English Provincial Society from the Reformation to the Revolution*, Hassocks 1977, pp. 125–48, 255–65; K. Wrightson 1982, pp. 25–6.

*'Good order' (p. 162)**The subject in general*

David Underdown, *Revel, Riot and Rebellion. Popular Politics and Culture in England 1603–1660*, Oxford 1985; K. Wrightson 1982, Chapter 6; Alan MacFarlane, in collaboration with Sarah Harrison, *The Justice and the Mare's Ale*, Oxford 1981. (MacFarlane seeks to demonstrate his thesis of individualism and capitalism, also defended elsewhere, by way of a structural analysis of criminality. In his view, the English ancien régime was not the continuation of medieval procedures, nor those typical of a peasant society, but 'capitalist', p. 186 & passim.) Also John Brewer and John Styles (eds.), *An Ungovernable People*, London 1980; Timothy Curtis, 'Explaining Crime in Early Modern England', in *Criminal Justice History*, 1, 1980: 117–37. For contemporary interpretation of the social hierarchy: T. Smith 1970 [1583].

*The initiatives of the crown*

On intensification of the organisation of government: John Guy, 'The King's Council and Political Participation', in John Brewer and John Styles (eds.), *Reassessing the Henrician Age*, London 1986, pp. 121–50; Steven Ellis, 'Crown, Community and Government in the English Territories, 1450–1575', in *Journal of the Historical Association*, 71, 232, 1986: 187–204; D.M. Palliser 1983, Chapter 10; Philip Corrigan and Derek Sayer, *The*

*Great Arch. English State Formation as a Cultural Revolution*, Oxford/New York 1985, Chapter 3. On the changing conception of public-order policy: C.G.A. Clay, Volume 2, 1984, pp. 225, 238–40. (Clay especially stresses that the changes in public-order practice predated the political revolution of the mid-seventeenth century.)

#### *The 'books of orders'*

Systematised administrative instructions of this kind were repeatedly given to the Justices of the Peace, for example, to deal with inflation and drought from 1577 onwards. The best-known 'books of orders', however, are those decreed by Charles I in 1630–1 at the start of his personal rule. These were particularly contested, less on account of their content than because of the crown's claim to regulate in this way. Though a new edition was compiled in the 1660s, this form of government prescription for local administration effectively came to an end in the 1630s. See, in particular, Paul Slack, 'Books of Orders: The Making of English Social Policy, 1577–1631', in *Transactions of the Royal Historical Society*, 5th series, Volume 30, 1980: 1–22; D. Hirst 1986, p. 45; Thomas Garden Barnes, *Somerset 1625–1640. A County's Government during the "Personal Rule"*, London 1961, Chapter 7; L.M. Hill (ed.), *The Origins of the English Civil War*, London 1973, pp. 77–93 (particularly p. 76 on the intention of reforming local administration that was bound up with the 'books of orders'); C. Carlton 1983, pp. 180–1.

I do not discuss either economic regulation in general, or the ordering of labour in particular (though there is something on these matters in connection with the structural change in appropriation). The relevant statutes are reprinted in R.H. Tawney and Eileen Power (eds.), *Tudor Economic Documents*, 3 vols., London 1951, Volume 1 (pp. 338 ff. for the law on apprentices). Other summary presentations in W.G. Hoskins 1976, pp. 108–13; P. Williams 1979, Chapter 5; A.G.R. Smith 1976, pp. 82–4.

#### *The Elizabethan poor law*

A brief introduction to the state of research, though superseded in parts, is John Pound, *Poverty and Vagrancy in Tudor England*, London 1971. The legislation is reproduced in R.H. Tawney and E. Power (eds.) 1951, Volume 2, pp. 298, 328 ff. E.M. Leonard, *The Early English Poor Relief*, Cambridge 1900, is likewise based chiefly on these statutes. More specifically oriented to actual practice are Alan G.R. Smith 1967, pp. 72–81; W.K. Jordan, *Philanthropy in England 1480–1660*, London 1959; P. Williams 1979, Chapter 6. The repressive aspect and the far-reaching implementation of legal decisions in Kent during the crisis of the 1590s is highlighted by P. Clark 1977, p. 241. For the – originally – supervisory function of the Justices of the Peace over care for the poor at parish level, and subsequent changes: Dorothy Marshall, 'The Role of the Justice of the Peace in Social Administration', in Harry Hearder and H.R. Loyn (eds.), *British Government and Administration*, Cardiff 1974, pp. 155–68; an analytically systematic treatment of this subject is found in Paul Slack, 'Poverty and Social Regulation in Elizabethan England' in C. Haigh (ed.) 1984, pp. 221–43.

Attempts to determine the extent of poverty and the number of vagabonds include: D.C. Coleman, 'Labour in the English Economy of the Seventeenth Century', in *Economic History Review*, 2nd series, 2, 1950: 280–95; Peter Clark, 'The Migrant in Kentish Towns 1580–1640', in P. Clark and P. Slack (eds.) 1972, pp. 117–63; Whitney R.D. Jones 1973, pp. 135–40. (W.R.D. Jones's theses on the political crisis are contentious and have been in many respects refuted, but this need not apply to the same degree to his depiction of social conditions.) Also W.G. Hoskins 1976, p. 112. (For the reign of Henry VIII, Hoskins maintains that the term 'vagabond' was still equivalent to that of 'labourer', and for seasonal work migrant labourers were quite irreplaceable. Yet he describes in detail the particularly brutal law of 1547 that threatened vagabonds with slavery, though this only remained in force for two years.)

#### *Justice*

My presentation in the text is confined to a few particular aspects of criminal justice. A depiction of 'good order' with a claim to completeness, however, not only needs to deal with the assize courts and higher courts in general (especially the Star Cham-

ber), but also and above all take into account the development of civil jurisdiction. References to corresponding developments and the state of research can be found in the brief but striking description of English legal development, which was extremely complicated, given by J.H. Baker, *Criminal Courts and Procedure at Common Law 1550–1800*, London 1977, pp. 15–48; by the same author (on the state of research), 'The Dark Age of English Legal History 1500–1700', in J.H. Baker (ed.), *Legal Historical Studies*, Cardiff 1975 [1972], pp. 1 ff. See also S.F.C. Milsom, *Historical Foundations of the Common Law*, 2nd edn., London 1984, Chapter 14. For the distinction between law-breaking and criminality (and the degree of social discrimination of illegal behaviour): Geoffrey R. Elton, 'Crime and the Historian', introduction to James S. Cockburn (ed.), *Crime in England 1550–1800*, London 1977, pp. 1–14; Cynthia B. Herrup, 'Law and Morality in Seventeenth-Century England', in *Past and Present*, 106 1985: 102–23. (Herrup also offers – on pp. 102–3 – detailed references to the discussion in question here.)

#### *On private informants*

The most detailed and thorough work is M.W. Beresford, 'The Common Informer, The Penal Statutes and Economic Regulation', in *Economic History Review*, 2nd series, Volume 10, 1957–8: 221–37; cf. C.G.A. Clay 1984, Volume 2, p. 257. On the growth in number of legal proceedings: L. Stone 1965, p. 240.

#### *On the particular features of local public-order practice*

J.A. Sharpe, 'Crime and Delinquency in an Essex Parish 1600–1640', in J.S. Cockburn (ed.) 1977, pp. 90–109; M.J. Ingram, 'Communities and Courts: Law and Disorder in Early Seventeenth-Century Wiltshire', in J.S. Cockburn (ed.) 1977, pp. 110–34. The documents of assize courts (in Essex) are assessed in a highly informative and commented collection: F.G. Emmison, *Elizabethan Life: Disorder*, Chelmsford 1970. For a precise description of structures of local government and administration: L.M. Hill, 'County Government in Caroline England 1625–1640', in Conrad Russell (ed.), *The Origins of the English Civil War*, London 1973, pp. 77–83; cf. also J.E. Neale, *The Elizabethan House of Commons*, Glasgow 1976 [1949], pp. 19–22; Frederic A. Youngs, Jr, 'Towards Petty Sessions', in Delloyd J. Guth and John W. McKenna (eds.), *Tudor Rule and Revolution*, Cambridge 1982, pp. 201–16; J. Hurstfield 1973, Chapter 1 & passim. (Hurstfield explains that contemporaries who expressed themselves in literature held *consensus* to be the basis of the society in which they lived, and explained what hierarchical structures and power-based regulations this specifically involved. The older public-order practice referred to in the text is thus subsumed under a concept that today is easily misunderstood. This corresponded to the view of those who participated in rule.) My own presentation corresponds most closely to J. Brewer and J. Styles (eds.) 1980, editors' introduction, pp. 11–20; also to the contribution in this volume by Keith Wrightson, 'Two Concepts of Order: Justices, Constables and Jurymen in Seventeenth-Century England', pp. 21–46. See also a summary of the state of research in D. Hirst 1986, pp. 43–8.

#### *Juries*

The jury system is depicted as the 'hearth of justice' against brutal laws in S.F.C. Milsom 1981, p. 403. For punishment of jurors and the property qualification in London: pp. S.B. Chrimes, *Henry VII*, Berkeley/Los Angeles 1972, p. 187; J.H. Baker, in J.S. Cockburn (ed.) 1977, pp. 21–2 (jurors as prejudiced).

#### *The continuing importance of manorial courts*

J.A. Sharpe, in J.S. Cockburn (ed.) 1977, p. 113. Especially on the judicial treatment of disturbances: Buchanan Sharp, *In Contempt of All Authority*, Berkeley 1980; John Walter, 'Grain Riots and Popular Attitudes to the Law: Maldon and the Crisis of 1629', in J. Brewer and J. Styles (eds.) 1980, pp. 47–84.

## b.3. 'The charms of the sovereign' (p. 173)

*The particular character of personal monarchical power*

The analytical problematic I formulated in the text is only developed in a similar way to my knowledge by Geoffrey E. Aylmer; see his book *The King's Servants*, London/Boston 1974 [1961]. (Aylmer proposes a distinction between 'absolutism' and 'personal monarchy'. Absolutism would be a form of power in which officials are members of a bureaucracy, and no longer 'the king's servants' to such a complete extent as was the case in England. This view – fundamentally opposed to Elton's position – corresponds to the results of my own analysis, in which connection the different approach to what Aylmer describes as absolutism can be left aside for the moment. Aylmer then continues with a line of argument that coincides with my own analysis of the system of rule in so far as what he describes as the 'victory of the oligarchy', i.e. of the ruling estates in my terms, meant that even after the revolution a 'bureaucracy' failed to emerge: in my terms, there was still no complete depersonalisation of the state rule.)

On the 'two bodies of the king', cf. Ernst H. Kantorowicz, *The King's Two Bodies*, Princeton, 1957. (Though Kantorowicz draws on Maitland for his information on religious history – p. 7 – he goes far beyond the latter's critique of the assumption of *corporation sole* for the royal ruling power; cf. Frederic William Maitland, *Selected Essays*, edited by H.D. Hazeltine, G. Lasley and P.H. Winfield, Freeport 1968 [1946], pp. 73–103, 104–127. (Maitland maintained that this legal fiction was developed in the sixteenth century, in order to establish that a parson possessed church land not as a person but rather as a *corporation sole*, p. 76. The same argument was then applied to the king and to the officers of the City of London, p. 81.) The fact that there was still no notion of the 'body politic' in the reign of Henry VII that did not assume the king as its head is maintained by R.L. Story, *The Reign of Henry VII*, New York 1968, p. 14. In the 1630s, such conceptions did develop. This did not mean, however, that they were already decisive in politics: cf. D. Hirst 1986, p. 26. The position I advance in the main text is also particularly supported by Russell's 'revisions' of parliamentary history: cf. Conrad Russell, 'Parliamentary History in Perspective, 1604–1629', in *History*, 61, 1976: 1–27.

*The symbolic practice of rule*

Gardiner already referred to the symbolic forms of rule when he wrote that Charles I, by leaving London in 1641, was no longer in a position 'to keep up *that show of authority* (my emphasis) which might one day be converted into real power': Samuel Gardiner, *History of England from the Accession of James I to the Outbreak of the Civil War 1603–1642*, Volume 10, New York 1965 [1883], p. 9. For Johnson's advice that princes should perfect themselves 'in the outward celebration or show': P.W. Thomas, 'Two Cultures? Court and Country under Charles I', in C. Russell (ed.) 1973, p. 177. Generally on this subject: A.G.R. Smith 1965, pp. 3–5, 109–10; idem 1974, p. 373 (contains a comparison of the court of Elizabeth with that of Charles); D.M. Palliser 1983, p. 301; C. Wilson 1971, p. 95; C. Carlton, 'Three British Revolutions and the Personality of Kingship', in J.G.A. Pocock (ed.), *Three British Revolutions: 1642, 1688, 1776*, Princeton 1980, pp. 165–208 (also contains references to further and especially older literature on the courts of James I and Charles I).

On the Association of 1584, designed to protect the royal person by an extra-legal oath (by which all members promised to intervene with their life and their wealth for the protection of the queen, and threatened anyone who defaulted from this with punishment by the other members): David Cressy, 'Binding the Nation: The Bonds of Association 1584 and 1696', in D.J. Guth and J.W. McKenna (eds.) 1982, pp. 217–25. On the cure of scrofula by Charles I in 1639 in York cathedral: Perez Zagorin, *The Court and the Country*, London 1969, p. 40.

*The extent of centralised monarchical power.*

For the extension of monarchical power by making the high nobility into a court nobility (the end of the rebellions), in general: L. Stone 1965, here in particular



pp. 250–68; W.T. MacCaffrey, 'England, the Crown and the New Aristocracy 1540–1600', in *Past and Present*, 30, 1965, p. 53; P. Clark 1977, pp. 16–17. On the repression of private noble power by Henry VII: S.B. Chrimes 1972, pp. 310–12. Generally: D. Hirst 1986, p. 55. The extent of centralised power is also made clear by government by proclamation (instead of by law). I give no details on this in the text, but some references are: S.B. Chrimes 1972, pp. 175–7; Rudolph W. Heinze, 'Proclamations and Parliamentary Protest 1539–1610', in J. Guth and J.M. McKenna (eds.) 1982, pp. 237–68. The same volume contains an essay to be highly recommended, extending beyond the period in question here: Wallace T. MacCaffrey, 'Parliament: The Elizabethan Experience', pp. 127–47. Cf. here also Conrad Russell, *Parliaments and English Politics 1621–1629*, Oxford 1979 (which generally stresses the character of Parliaments as instruments of royal policy).

On the actual success of royal policy in the 1630s: J.S. Morrill, *The Revolt of the Provinces*, London/New York 1976, p. 15; T. Garden Barnes 1961 (especially also on the 'books of orders'). On church policy, cf. the sources cited for sub-section of b.2 on 'religious power'. Especially here again Patrick Collinson, 'The Jacobean Religious Settlement: The Hampton Court Conference', in Howard Tomlinson (ed.) *Before the English Civil War*, London/Basingstoke 1983, pp. 27–51. On the structural requirements of the policy of privileges: Zagorin 1969; cf. also here Gardiner 1965, Volume 10, p. 7. (Gardiner cites a letter from Charles I to his wife of summer 1641, in which he expresses his hope of winning his most bitter enemies among the Scottish nobles to his cause by the promise of offices.)

The expansion of monarchical power by improvement in the crown's instruments of government is the main theme of all works by Geoffrey R. Elton. See here above all, Elton 1969; idem, 'Tudor Government: Points of Contact', in *Transactions of the Royal Historical Society*, 1974: 183–200. On the question of freedom to choose advisers (something that varied from one period to another): Williams 1979, Chapter 13. On the strengthening of monarchical power by an intensified generalisation practised on an estate basis, cf. in particular Smith 1967, esp. p. 108; idem 1984, Section 33. On government policy as a factor of disturbance: Underdown 1985, especially Chapter 5. On the opposition of court and country, Zagorin 1969.

#### *The 'charms of the sovereign'*

Smith 1967; Smith 1984; Palliser 1983, Chapters 10, 11, 12; Garrett Mattingly, *The Armada*, London 1959.

#### *The structure of the court*

Kevin Sharpe, 'The Personal Rule of Charles I', in H. Tomlinson (ed.) 1983, pp. 53–78. (Sharpe ascribes the particular flourishing of favouritism under James I to the fact that in his reign anyone who had access to court could address the king. Charles I, on the other hand, restricted access to the royal couple by specific regulations in 1631. By formalising the ceremonial to be respected at court, this was developed into a calculated instrument of personal rule.)

#### b.4. *Divergence between centralised and generalised power: the crises of Charles I's reign (p. 181)*

##### *The thesis of a financial crisis*

The thesis of a general financial crisis of the crown, lasting from the fourteenth to the seventeenth century, is upheld by G.L. Harris, who argues this especially for the period 1610–29 in Kevin Sharpe (ed.), *Faction and Parliament. Essays on Early Stuart Government*, Oxford 1978, pp. 209–44. On the sharpening of the financial situation by the increasing cost of warfare: Smith 1967, pp. 110–11; Conrad Russell, *The Crisis of Parliaments: English History 1509–1660*, Oxford 1971; Russell 1976; idem, *Parliaments and English Politics 1621–1629*, Oxford 1979; idem, 'Parliament and the King's Finances', in C. Russell (ed.) 1973, pp. 91–116. On the importance of the contents of foreign policy for the financial situation: Simon L. Adams, 'Spain or the Netherlands? The Dilemmas of Early Stuart Foreign Policy', in H. Tomlinson (ed.) 1983, pp. 139–72. On the stabilisation

of the financial situation in the period of personal rule: David Thomas, 'Financial and Administrative Developments', in H. Tomlinson (ed.) 1983, pp. 103–22.

*The church policy of the early Stuarts*

See the sources cited in the Section 'Structural Change in Religious Power'. Here again especially Cross 1979, Chapter 8; Alexander 1969, Chapters 12 & 13 (especially on church policy under Charles II); Chrimes 1967, p. 109; Smith 1984 (on the connection between Charles I's church policy and the breakdown of his government, pp. 282–4, 372).

*The prerogative courts*

I do not go into the debates over the interpretation of the common law, nor the critique of the Star Chamber, which under Henry VIII was separated out from the Privy Council. Cf. on this subject: Chrimes 1967, p. 110; Hirst 1986, p. 27; Smith 1967, p. 110; Donald Veall, *The Popular Movement for Law Reform, 1640–1660*, Oxford 1970.

*The significance of local conflicts*

See the sources cited for b.4. In addition: J.S. Morrill, *The Revolt of the Provinces*, London/New York 1976, especially pp. 24–9; J.S. Morrill, *Seventeenth-Century Britain 1603–1714*, Folkestone 1980. On the interpretation of 'county' attitudes as *frondisme*: Hugh Trevor-Roper, 'The General Crisis of the Seventeenth Century' [1959], reprinted in Trevor Aston (ed.), *Crisis in Europe 1560–1600*, London 1965, pp. 59–96.

c. *The partial revolutionising of the ancien régime* (p. 184)

*Digression: The English Revolution as object of strife between historical interpretations* (p. 184)

I did not discuss in the text the evolutionist position which denies the reality of the Revolution, seeing it as a mere rebellion of little structural significance that signalled only a temporary departure from a long and steady process of modernisation (constitutionalisation, capitalisation): Geoffrey R. Elton, *The History of England* (lecture), Cambridge 1984. (Elton sees English development as characterised over the centuries by a process of the 'civilizing of power'.) This position has been especially popularised by H.R. Trevor-Roper, 'The Social Origins of the Great Rebellion', in *History Today*, 5, 1955: 382 ff.; idem, *Crisis in Europe 1560–1600*, London 1965, pp. 59–96. That the term 'revolution' for the events of the 1640s continues to be contested is also discussed by Peter Wende, *Probleme der englischen Revolution*, Darmstadt 1980, pp. 1–3. Other authors who write of the 'so-called English Revolution' include for example J.R. Jones, *Country and Court. England 1658–1717*, Cambridge, MA 1978, Introduction. McInnes also comes round to the view that if there was a revolution at all, it was certainly not in 1640: Angus McInnes, 'When Was the English Revolution?', in *History*, 67, 1982: 377–92. Lawrence Stone, 'Interpersonal Violence in English Society', 1300–1980', in *Past and Present*, 101, 1983: 22–33.

*The discussion of the rise of the gentry*

R.H. Tawney, *The Agrarian Problem in the Sixteenth Century*, New York 1967 [1912]; H.R. Trevor-Roper, *The Gentry 1540–1640*, *Economic History Review* Supplements 1–4, London 1953; Jack H. Hexter, *Reappraisals in History* (including 'Storm over the Gentry' [1958]), London 1961, pp. 117–62; Christopher Hill, *Puritanism and Revolution*, London 1958 (including 'Recent Interpretations of the Civil War'). See also Bush 1984 and idem, *The European Nobility* (2 vols.), New York 1983.

*The discussion of the pre-history of the Revolution*

Even the beginning of a complete presentation of the debate is impossible here. By way of introduction, I refer in particular to R.C. Richardson, *The Debate on the English Revolution*, London 1977 (Richardson outlines the development of the debate from the seventeenth century on), and (for more recent debates) J.C.D. Clark, *Revolution and Rebellion*, Cambridge 1986. Also helpful is the brief survey of the literature by Peter

Wende, 'Revolution ohne Vorgeschichte?', in *Historische Zeitschrift*, 230, 1980: 364–74; likewise the editor's introductory chapter in Howard Tomlinson (ed.), *Before the English Civil War*, London/Basingstoke 1983, pp. 7–26; F. Dow, *Radicalism in the English Revolution 1640–1660*, Oxford/New York, Chapter 1; Alan G.R. Smith, *The Emergence of a Nation State*, Harlow/New York 1984, Chapter 35.

*The Whig interpretation of history and the recent emphasis on the relevance of constitutional conflicts and public discourse*

Samuel R. Gardiner, *History of England from the Accession of James I to the Outbreak of the Civil War*, 10 vols., New York 1965 [1883]. Also the important constitutional history work of W. Notestein, *The Winning of the Initiative by the House of Commons*, New Haven 1971 [1924–5]. The same interpretation is clearly presented in S.B. Chrimes, *English Constitutional History*, London 1967 [1948], esp. here pp. 100–2; and in a revised form by Jack H. Hexter, *The Reign of King Pym*, Cambridge, MA 1941.

*The thesis of a politically decisive role of the peers and criticism of this*

James E. Farnell, 'The Aristocracy and the Leadership of Parliament in the English Civil Wars', in *Journal of Modern History*, 44, 1972: 79–86; see in particular the special volume of this periodical, 49, 1977: 557–660 with essays by John K. Gruenfelder, Clayton Roberts and Mark Kishlansky, and by James E. Farnell. Against the positions advanced in this volume: Jack H. Hexter, 'Power Struggle, Parliament and Liberty in Early Stuart England', in *Journal of Modern History*, 50, 1978: 1–50, as well as Derek Hirst, 'Unanimity of the Commons, Aristocratic Intrigues and the Origins of the English Civil War', in *Journal of Modern History*, 50, 1978: 51–71. For the thesis of a crisis of the aristocracy and a corresponding loss of relative importance by the House of Lords: Lawrence Stone, *The Crisis of the Aristocracy 1558–1640*, Oxford 1965. For a relatively moderate criticism of Stone's position, see Kevin Sharpe, 'The Earl of Arundel, his Circle and the Opposition to the Duke of Buckingham', in idem (ed.), *Faction and Parliament*, Oxford 1978, pp. 209–44. (Sharpe emphasises the great significance of personal connections, thus playing down the assumption of factions.) For a general critique of the assumption of intensifying constitutional conflicts: Geoffrey R. Elton, 'A High Road to Civil War?', in Charles H. Carter (ed.), *From the Renaissance to the Counter-Reformation. Festschrift for G. Mattingly*, London 1966 [1965], pp. 325–47. For the Namierism of the revisionists: Lewis Namier, *The Structure of Politics at the Accession of George III*, London 1957; for a critique of Namierism: L. Stone 1965: pp. 4–5; J.C.D. Clark 1986: pp. 11–15.

*The English Revolution as a 'bourgeois revolution'*

Christopher Hill, *The English Revolution, 1640*, London 1940; Lawrence Stone, *The Causes of the English Revolution 1529–1642*, London 1972 (far more cautious than Hill). Summaries of the former discussion can be found in Lawrence Stone, 'The Bourgeois Revolution of Seventeenth-Century England Revisited', in *Past and Present*, 109, 1985: 44–54; Christopher Hill, 'Parliament and People in Seventeenth-Century England', in *Past and Present*, 92, 1981: 100–124; idem, 'A Bourgeois Revolution?', in John G.A. Pocock (ed.), *Three British Revolutions*, Princeton 1980, pp. 109–39; J.H. Hexter 1978 (rejecting revisionist positions); also M.A. Judson, *The Crisis of the Constitution*, New Brunswick, NY 1949.

On the significance and expansion of public discourse (both relevant in connection with debates on the relevance of constitutional conflicts), and the broadening (beyond the gentry) of the social basis of parliamentary suffrage: Derek Hirst, *The Representative of the People? Voters and Voting in England under the Early Stuarts*, Cambridge 1975; Theodore K. Rabb, 'Revisionism Revised: The Role of the Commons', in *Past and Present*, 92, 1981, esp. p. 71. In this connection the expansion of education among gentry families is also important; see on this point (indicating definite effects despite certain restrictions) John S. Morrill, *The Revolt of the Provinces*, London/New York 1976, esp. pp. 23, 35. For the debate as to the existence of enduring factions, interpretation of the points of contention in the Parliaments of 1604 and 1628 has become especially important. Jack Hexter in particular has demanded time and again that an estimate of their significance should be made only on the basis of the debates actually conducted. For

of war, see also P. Zagorin 1969, esp. p. 331. The different political orientations of particular London corporations as well as the change in political alignments as a function of political events, and above all the emergence of a broad group of 'moderate elements' in the London city council, is studied by Robert Brenner, 'The Civil War Politics of London's Merchant Community', in *Past and Present*, 58, 1973: 53–107. Compare on the same subject Hans-Christoph Junge, *Flottenpolitik und Revolution*, Stuttgart 1980. (According to this author, the 'new merchants' were 'the most aggressive portion of the London merchant class', wholly on the side of Parliament and directly involved economically in the build-up of the navy.) Ashton, in his detailed study of London politics, stresses that the 'concessionary interests' of London corporations were not completely court-oriented in their politics. In his view, it was for this reason that no revolution was needed in London in 1641–2; this was rather forestalled by a path-breaking reorientation of the London aldermen: Robert Ashton, *The City and the Court, 1603–1643*, Cambridge 1979, summary on p. 204 & passim. Whilst, in this work, Ashton argues particularly against Valerie Pearl (*London and the Outbreak of the Puritan Revolution*, London 1961), in an earlier essay it was Christopher Hill that he especially criticised. Cf. R. Ashton, 'Puritanism and Progress', in *Economic History Review*, 2nd series, 17, 1964/65: 579–87, especially here pp. 585–6.

*The development of constitutional conflicts*

The classic presentation of Samuel R. Gardiner assumed a consistent and steady development of principles, but not the development of opposing groups that is often ascribed to his work (more often cited than read). Cf. S.R. Gardiner, 10 vols. 1965. For a closer discussion of this subject, I recommend a reading of the 1628 debates: *Commons Debates of 1628* [1977]; a cautious presentation of these is found in M.A. Judson, *The Crisis of the Constitution*, New Brunswick 1949. A good summary of the state of research and debate is given by Derek Hirst, 'The Place of Principle', in *Past and Present*, 92, 1981: 79–99. Whilst even Hirst still represents the view of a developing tradition of constitutional criticism, the contrary position is expressed particularly trenchantly in Conrad Russell (ed.), *The Origins of the English Civil War*, London 1973 (cf. here the editor's introduction); likewise Geoffrey R. Elton, 'A High Road to Civil War?', in C.H. Carter (ed.) 1966. (Elton particularly deals with the 'Apology' of 1604, which is sometimes taken as the point of departure of a systematic constitutional criticism.) Of more recent historians, besides Derek Hirst (who upholds the thesis of the development of constitutional principles in comparatively muted form), Jack Hexter particularly continues the old Whig interpretation. Especially trenchant in this respect is his book on Pym. The significance that Hexter accords this great champion of the Commons is shown by his conclusion that 'When Pym died in December 1643, the cause of Parliament, at least for some time, died with him': Jack H. Hexter, *The Reign of King Pym*, Cambridge, MA 1941, p. 5. For a similar development of the constitutional line of argument, cf. Corinne Comstock Weston and Janelle Renfrow Greenberg, *Subjects and Sovereign*, Cambridge 1981; Richard Saage, 'Zur politischen Theorie der großen Englischen Revolution', in *Neue politische Literatur*, 25, 1980: 170–88.

*The development of the politics of the Long Parliament in the first years of the Civil War*

A history of events from the perspective of parliamentary history is J.R. Tanner, *English Constitutional Conflicts of the Seventeenth Century 1603–1689*, Cambridge 1971 [1928], here Chapters 6–10. The social composition of the Long Parliament is studied by D. Brunton and D.H. Pennington, *Members of the Long Parliament*, London 1968 [1954]; cf. on this subject also Charles Harding Faith, *The House of Lords during the Civil War*, Totowa/London 1974 [1910]. David Underdown has provided an outstanding study of the parliamentary conflicts, their changing factions and shifting leaders that goes beyond the period suggested by its title: *Pride's Purge*, Oxford 1971. See also D. Hirst 1986, Chapter 8. The rise of factions is also treated by Mark Kishlansky, 'The Emergence of Adversary Politics in the Long Parliament', in *Journal of Modern History*, 49, 1977: 617–40. On the influence of the aristocracy – also on the Commons – in the Long Parliament during the first years of the First Civil War, cf. by way of

summary the review article by James E. Farnell, 'The Aristocracy and Leadership of Parliament in the English Civil Wars', in *Journal of Modern History*, 44, 1972: 79–86. Farnell himself maintains that the Revolution in London was largely led by the peers (in which case, however, the whole Revolution would really have been a matter between rival factions at court, or in close proximity to it); cf. here his article 'The Social and Intellectual Basis of London's Role in the English Civil Wars', in *Journal of Modern History*, 49, 1977: 641–60. On the form of government practised by Parliament in the provinces, cf. by way of summary (and respecting the great regional differences): J.S. Morrill 1976. (This author also discusses the 'Associations' as forms that stood against the old structures of regional administration.)

*The course of the First Civil War*

Christopher Hill's *The English Revolution. 1640*, London 1940 is cited in the text as an example of a work in which the military outcome of this war in Parliament's favour is seen as a foregone conclusion. An especially trenchant critique of this position can be found in a review article on another of Hill's works (*The Century of Revolution 1603–1714*, London 1961) by Charles Wilson, 'Economics and Politics in the Seventeenth Century', in *Historical Journal*, Volume 5, 1, 1962: 80–104. Generally on the course of the war: D. Hirst 1986, Chapter 8; Maurice Ashley, *The English Civil War*, London 1980 [1974]. On the many details of military organisation: Philip J. Haythornthwaite, *The English Civil War 1641–1651*, Poole 1983. A highly recommended brief presentation of the organisation of armed force on both sides as well as the forms of its organisation in the regions is given by J.S. Morrill 1976, pp. 53–66; on the king's side, a declaration justifying among other things the recruitment of Catholics for 'Cavalier' regiments is *A Declaration Made by the Earl of New Castle*, Leigh-on-Sea 1983 [1642]. On the decisive issue of the financing of military campaigns, there are two good short summaries of the state of research: D.H. Pennington, 'The County Community at War', in E.W. Ives (ed.), *The English Revolution 1640–1660*, London 1968, here pp. 66–7; C.G.A. Clay, Volume 2 1984, here pp. 263–8. On the reform of armed force by Parliament: Mark A. Kishlansky, *The Rise of the New Model Army*, Cambridge 1983 [1979]; Hans-Christoph Junge, "'The Fittest Subject for a King's Quarrel': Politik, Militär und Gesellschaft in England 1640–1660", in *Militär-geschichtliche Mitteilungen*, 1, 1981: 143–63.

*Significance of the public sphere for the development of political conflicts*

In the view of Richard Cust, 'News and Politics in Early Seventeenth-Century England', in *Past and Present*, 112, 1986: 60–90, while published news does not cause political decisions, it does mark the emergence of political viewpoints (p. 87), increasingly so from the start of the seventeenth century (p. 89). In this connection, pertaining to the general background, Wrightson's view is also relevant, according to which 'the educational transformation of the ruling class cannot be held, as some contemporaries believed, to have caused the Great Rebellion of 1640. But it had a great deal to do with the manner in which the political and religious conflicts of the period were perceived, articulated and debated', in Keith Wrightson, *English Society 1580–1680*, London 1982, p. 193. On the decisive politicisation of the population of London, and corresponding forms of literary and spontaneous public expression, cf. V. Pearl 1961, especially Chapter 6 but also *passim*. The mass petitions were 'fruits of sermons', according to William Haller, *Liberty and Reformation in the Puritan Revolution*, New York/London 1955, p. 16. On the collapse of censorship and its reintroduction: Donald Thomas, *A Long Time Burning. A History of Literary Censorship in England*, London 1969, p. 12.

*The start of the Puritan revolution, the conflicts over church policy and the attempts to moralise society*

W. Haller 1955 is general and thorough. (Even those who do not, like Haller, take the religious disputes as central to the political struggles, should follow his lead in dealing in detail with the contents of these and the religious conception of political and social questions. That attempts at a fundamental moralising already preceded the revolutionary events is shown in Chapter 12.) As distinct from a view established in

the literature, however, I find the much-cited religious-history work of Walzer, which seeks to prove the fundamentally revolutionary content of Puritanism, far less convincing. Cf. Michael Walzer, *The Revolution of the Saints*, London 1986. Packer investigates the changes in the English church during the Revolution on the basis of a study of the role of Henry Hammond, who belonged to the 'Laudian party' (a concept of Bosher's): John W. Packer, *The Transformation of Anglicanism*, Manchester 1969. A good summary survey is to be found in John S. Morrill, 'The Church in England 1642–49', in idem (ed.) 1983, pp. 89–114. On moralisation, cf. also A.G.R. Smith 1984, p. 363. For a detailed presentation of the rise and further development of the Covenanters, see J.D. Douglas, *Light in the North. The Story of the Scottish Covenanters*, Grand Rapids 1964.

*The revolutionary attack on generalised estate rule (p. 207)*

*Generally on the course of events from the 'crisis in the army', via the political 'purge' of the Long Parliament, to the abolition of the monarchy, the republic, the Protectorate and the Restoration*

For the development that led to the 'purge' of Parliament and thus to a political situation in which the execution of the king seemed pressing, David Underdown's study has acquired a decisive position, especially because it also combines narrative and structural analysis in an exemplary fashion: D. Underdown 1971. Chiefly on the composition of the Rump Parliament and the transition to the Protectorate, cf. also Blair Worden, *The Rump Parliament 1648–1653*, London/New York 1974. For a brief survey of the entire period, see also D. Hirst 1986, Chapters 9 & 10, as well as J.R. Jones, *Country and Court. England 1658–1714*, Cambridge, MA 1978. A short text but highly recommended, with references to the most important literature, is Austin Woolrych, *England Without a King 1649–1660*, London/New York 1983. Cf. also G.E. Aylmer (ed.), *The Interregnum: The Quest for Settlement 1646–1660*, London/Basingstoke 1972. More particularly on the Restoration: Joan Thirks, *The Restoration*, London 1976. A far-reaching narrative with a strong focus on cultural developments is David Ogg, *England and the Reign of Charles II*, London 1967 [1934]. Of the biographical works (a genre long predominant), particularly important are Christopher Hill, *God's Englishman. Oliver Cromwell and the English Revolution*, London 1970, and Cicely Veronica Wedgwood, *Oliver Cromwell*, London 1975 [1939]. A text with a very marked personal orientation, and offering no structural-analytical foundation for this, is Peter Wende, *Probleme der englischen Revolution*, Darmstadt 1980, pp. 117–24; very strong on the social-historical aspect, on the other hand, is H.C. Junge 1980. On the course of the Second Civil War, Winston S. Churchill, *History of the English-Speaking Peoples*, 4 vols., London 1956–8, here Volume 2.

*The 'crisis in the army' and the development of the New Model Army as a political force*

M.A. Kishlansky 1983; D. Underdown 1971, pp. 80 ff.; J.R. Tanner 1971, Chapter 9; W. Haller 1955. On the Levellers in the army: Barry Denton, *The Crisis in the Army 1647, Leigh-on-Sea*, n.d. On Leveller resistance to the Irish campaign: Christ Durston, "'Let Ireland be Quiet": Opposition in England to the Cromwellian Conquest of Ireland', in *History Workshop*, 21, 1986: 105–12; cf. also the references in the following section, which also deals among other things with radicalism in the army.

*Generally on the development of radical popular movements*

A.L. Morton (ed.), *Freedom in Arms, A Selection of Leveller Writings*, New York 1975. (Morton's commentary follows a traditional Marxist interpretative grid. There are 'historical roles' to be fulfilled, and similarly the beginnings of political unity against the 'feudal order', p. 71. Also, in Morton's view, the Levellers hold the centre stage of history for three years, p. 73. The usefulness of this edition however remains, and the Levellers' arguments still stand, three hundred years later, as evidence of insights into the structures of rule far beyond the immediate moment.) G.E. Aylmer (ed.), *The Levellers in the English Revolution*, London 1975 (with an excellent and detailed introduction by the editor). For the Levellers' understanding of democracy and the causes of their defeat (which the author seeks rather in theory): R. Saage 1980: pp. 181–8. Especially

influential for the discussion of this 'radicalism' is Christopher Hill, *The World Turned Upside Down*, Harmondsworth 1976 [1972]; also B. Manning 1978 (probably the most trenchant interpretation of the English Revolution as a class struggle).

My own line of argument rather follows that of Dow, who sees the significance of radicalism especially in the fact that it influenced the decisions of those who feared the radical popular movements. Cf. F.D. Dow, *Radicalism in the English Revolution 1640–1660*, Oxford 1985; similarly also Austin Woolrych 1983, pp. 15, 16; cf. Christopher Hill, 'The Many-Headed Monster in Late Tudor and Early Stuart Thinking', in C.A. Carter (ed.) 1966, pp. 296–324. On the 'radicals' in the provinces, without whom the army would have been unable to implement its policies, see David Underdown, '"Honest" Radicals in the Counties 1642–1649', in Donald Pennington and Keith Thomas (eds.), *Puritans and Revolutionaries*, Oxford 1978, pp. 186–205. (Underdown warns moreover against overestimating the careerist intentions of members of the County Committees.) For the origin of the Leveller leaders, see A.L. Morton (ed.) 1975, p. 23. The fact that a large part of the insurgent demonstrators in London came very likely from gentry families is discussed by G.E. Aylmer, 'Gentlemen Levellers?', in *Past and Present*, 49, 1979: 120–5.

*The religious conflicts from the time of the Rump Parliament*

J. Morrill (ed.) 1982; W. Haller 1955; B. Worden 1974, Chapter 7; J.R. Tanner 1971, Chapter 9; R.S. Bosher, *The Making of the Restoration Settlement*, London 1951. W.K. Jordan, whose work is chiefly one of religious history, sees the religious tolerance that was implemented de facto during the Restoration era – if within definite political limits – as already based on earlier theological and church policy foundations: *The Development of Religious Tolerance in England*, Gloucester, MA 1976, here in particular Parts 3 & 4. Cf. on this point especially the introduction of the death penalty for adultery and incest in 1650, a law that Keith Thomas sees as scarcely applied and supported in its rigour by only a few of the 'saints'. In 1660, this penalty was rescinded: K. Thomas, 'The Puritans and Adultery. The Act of 1650 Reconsidered', in D. Pennington and K. Thomas (eds.) 1978, pp. 257–83.

*The development of an anti-revolutionary public and the struggle against the Protectorate form of government*

A. Woolrych 1983 also lists the most important literature on this subject; see p. 4 on the opposition to political 'climbers'. For the emergence of an anti-revolutionary and aggressively neutralist rural public, cf. J.S. Morrill 1976 (pp. 104–7 on the Clubman associations). On the development of resistance to the new 'tyranny', cf. Robert Ashton, 'From Cavalier to Roundhead Tyranny 1642–49', in J.S. Morrill (ed.) 1982, pp. 185–208. For the development of censorship regulation and its exercise, cf. D. Thomas 1969, pp. 13–14.

c.2. *Results of the Revolution* (p. 216)

*Certainly a revolution, but not the end of an era* (p. 216)

I argue against the positions advanced by Christopher Hill, *Reformation to Industrial Revolution*, Harmondsworth 1969. Philip Corrigan and Derek Sayer also follow this line of argument to a large extent: *The Great Arch. English State Formation as Cultural Revolution*, Oxford 1985, Chapter 5. (This work on the whole amounts to a rather angry shot misfired, since it promises an important new problematic by taking to extremes the procedure of illustrating historically a theoretical position, yet not only refrains from a precise debate with the results of historical research, but especially from any theoretical illumination of cultural concepts and their specific social basis at the time.)

*Economic development*

Brief, but representing the present state of research: C.G.A. Clay, *Economic Expansion and Social Change, England 1500–1700*, Cambridge 1984, Volume 2. The fact that the size

of the navy was partly, though in no way decisively, determined by considerations of colonial policy is shown by competing government spending still receiving priority in the Restoration period. Cf. (also on the Navigation Acts) H.C. Junge 1980, pp. 119–32 & Chapter 8.

*The absence of a permanently influential social supporting group for a bourgeois revolution*  
On the demand for the abolition of government regulations on production and trade: Valerie Pearl, *London and the Outbreak of the Puritan Revolution*, London 1961, pp. 116–17; on the demands for law reform: Donald Veall, *The Popular Movements for Law Reform*, Oxford 1970; on the failure of attempts at law reform during the Rump Parliament: B. Worden 1974, pp. 201–10. For the development of scholarly criticism of political conditions: Lotte Mulligan, 'Civil War. Politics, Religion and the Royal Society', in *Past and Present*, 59, 1973: 92–116. Conclusions such as those drawn by Christopher Hill, 'A Bourgeois Revolution?', in J.G.A. Pocock (ed.) 1980, p. 135, or Mark H. Curtis, 'The Alienated Intellectuals of Early Stuart England', in *Past and Present*, 23, 1962, reprinted in Trevor Aston (ed.), *Crisis in Europe 1560–1600*, London 1965, pp. 295–317, are also criticised by Mulligan.

*The significance of the abolition of the Court of Warde*

D. Ogg 1967, pp. 159–61. (This includes indications that personal dependence was abolished only for lords, not however for all who were subject to the manorial courts.)

*Reconstitution of estate possession of locally generalised rule* (p. 220)

*The displacement of the 'new men' and the strengthening of localism in the Restoration era.*  
In general: J.R. Jones 1978. (This work, important for the whole of this section, can also be used to supplement other relevant literature on the subject.) Cf. also Philip Jenkins, *The Making of a Ruling Class. The Glamorgan Gentry 1640–1790*, Cambridge 1983, here esp. p. 79. (Though as Jenkins regularly stresses, it is necessary to guard against generalising from conditions in a single – Welsh – county, this remains none the less a model analysis of local developments, since the author always bears in mind the changing extent and the limits of involvement in general developments.) Also J.R. Western, *Monarchy and Revolution*, London 1972. On the re-establishment and expansion of the power of the town oligarchs, cf. Peter Clark and Paul Slack (eds.), *Crisis and Order in English Towns 1500–1700*, London 1972, editor's introduction, esp. p. 25.

*The militia laws*

J.R. Western, *The English Militia in the Eighteenth Century*, London/Toronto 1965; J.R. Jones 1978, esp. p. 141.

*Church rule, demands for conformity and the exclusion crisis*

The high degree to which the re-establishment of the Church of England in the first years of the Restoration depended on the policy of the local gentry (not being decided just by crown, Parliament and bishops) is demonstrated by I.M. Green, *The Re-Establishment of the Church of England 1660–1663*, Oxford 1978, here esp. pp. 197–201. On the exclusion crisis in particular: pp. J.R. Tanner 1971, Chapter 15; D. Ogg 1967; J.R. Jones 1978, p. 15; J.R. Western 1972, pp. 35–45. Authoritative control of all office-holders by the bishops, and the importance of the oath demanded of all subjects to the faith sanctioned by power, is emphasised by K. Kluxen 1983, pp. 68–70 (cf. on the other hand Green, above). On the growing number of bishops after 1660 who hailed from noble families (including those of the lords spiritual), cf. Norman Ravitch, *Sword and Mitre*, The Hague/Paris 1966, pp. 114–24 (also on the restoration of episcopal rule in the Church of England, pp. 90–94). On the *de facto* rise of a certain religious toleration, cf. J.R. Western 1972, p. 159. That this 'limited intolerance', as Western strikingly calls it, still had no chance of success in the time of the Rump Parliament, is argued by B. Worden 1974, p. 201.



*Censorship regulations*

D. Thomas 1969, pp. 13–29; J.R. Western 1972, pp. 61–4; J.R. Jones 1978, p. 14.

*Generally on the repressive stabilisation of the Restoration*

J.R. Jones 1978 (the ban on mass petitions, p. 14; far-reaching renunciation of penal proceedings against supporters of the Revolution, with the exception of the 'regicides', pp. 122, 134). Also Max Beloff, *Public Order and Popular Disturbances, 1660–1714*, London 1938. (Beloff stresses the 'peace' of the Restoration, but goes on to maintain (p. 9) that at the turn of the following century the word 'mob' was coined and became current as a pejorative abbreviation of 'mobile'.) On the further use of electoral constituencies and suffrage as means of politics, cf. John Cannon, *Parliamentary Reform 1640–1832*, Cambridge 1973, pp. 33–4. On the crown's collaboration with the gentry against the local autonomy of urban corporations (the Corporation Act) and the subsequent reintegration of the town authorities into the structures of monarchical power, see J.R. Western 1972, pp. 69–72; also J.R. Jones 1978, pp. 144–55. On the legal measures in detail: J.R. Tanner 1971, Sections 14–15.

*Partial depersonalisation of the crown (p. 227)**The prerogative power of the crown*

I follow, with certain reservations, the interpretation of A. McInnes 1982, pp. 377–92, which is, in this respect, 'revisionist'. McInnes, for his part, based his line of argument to a good degree on the path-breaking study of J.R. Western 1972, to which I have also referred for many details of my own presentation.

*The influence of Parliament on government decisions*

J.R. Jones 1978, pp. 14–15. J.R. Western 1972 gives a systematic consideration of the possibilities of influence, esp. pp. 5–45. For details of the history of Parliament and particular conflicts: J.R. Tanner 1971, Chapters 11–16 (on strategies of influence of the crown, p. 232). For the dismissal of Clarendon – *de facto* compelled by Parliament – cf. K. Kluxen 1983, pp. 69–70; but compare on the same subject J.M. Green 1978, pp. 231–5.

*The rise and development of political factions*

J.R. Jones 1978, pp. 14–15; K. Kluxen 1982, pp. 72–3 (also on the origin of the labels Whigs and Tories); and especially D. Underdown, in D. Pennington and K. Thomas (eds.) 1978, p. 189. Norma Landau, *The Justices of the Peace 1679–1760*, Berkeley 1984, pp. 69–71, shows that at least from 1680 the Justices were no longer merely representatives of the local ruling estates (and particular patronage circles), but also functioned as representatives of political factions – which were still strongly personally structured at this time. For the dominant contents and controversies of political discourse, H.T. Dickinson, *Liberty and Property*, London 1979 [1977].

*The standing army*

Louis G. Schworer, *'No Standing Armies!'*, Baltimore/London 1974; J.R. Tanner 1971, p. 224; John Childs, *The Army of Charles II*, London 1976.

On the reintroduction of the Court of High Commission, J.R. Tanner 1971. On the change in the system of finance, the summary in C.G.A. Clay 1984, Volume 2, pp. 276–81. On the basis of the 'revolution' of 1688–9, J. Cannon 1973, pp. 25–6.

For the immediate and long-term effects of the events of 1688–9, the financial arrangements of 1690 and the war: John Cannon, 'The Isthmus Repaired: The Resurgence of the English Aristocracy, 1660–1760' (special reprint from *Proceedings of the British Academy*, Volume 68), London 1982, pp. 442–5; J.R. Western 1972, Chapter 1, also Chapters 8–11; Christopher Hill, *The Century of Revolution 1603–1714*, London 1974 [1961], pp. 223–45. For the subsequent debate on the perspective of a 'lost opportunity', H.T. Dickinson, 'The Eighteenth-Century Debate on the "Glorious Revolution"', in *History*, 61, 1976: 28–45. On the fundamental importance of the financial settlement

of 1690: Clayton Roberts, 'The Constitutional Significance of the Financial Settlement of 1690', in *Historical Journal*, 20, 1977: 59–76.

c.3. *Change in the structure of rule through changes in the structure of the ruling estate*

*The continuity of structures of possession* (p. 237)

Joan Thirks, 'The Restoration Land Settlement', *Journal of Modern History*, 26, 1954: 315–28; idem, *The Rural Economy of England*, London 1984, pp. 89–90. (This author also argues here that the purchasers of land were uncertain right from the start of their permanent rights of possession, and in the 1650s had demanded appropriate legal guarantees.)

*The general change in social structure*

Best informed on this is K. Wrightson 1982. (Many of the changes dealt with there, especially for example the impoverishment and ruin of peasants, are at least as important for the long-term development of social relations in the English kingdom, if not far more so, than those I have covered. My selection of the changes for discussion was governed by the subject at hand: change in estate rule through change in the ruling estate. This does not mean that this rule remained unaffected by the change in conditions of appropriation and forms of general social conflict.) See also, for a good summary of the state of research: C.G.A. Clay, 2 vols. 1984) (also on the agricultural crisis of the seventeenth century and the ruin of the peasants, and on the effect of forms of taxation).

*Structural changes within the ruling estate*

J.R. Jones 1978. (My presentation follows Jones's interpretation in a large number of details, but not in his contention that already in the reign of Queen Anne the distribution of power and influence favoured money over origin, p. 79. Jones also gives a central place to the claim that the old structure of conflict between court and country had been dissolved by the emergence of an oligarchical estate upper stratum, p. 71.) Also J.R. Western 1972. Of importance far beyond the immediate field of study is the work of P. Jenkins 1983. Whereas J. Cannon 1983 treats the position of the nobility in the Restoration and beyond chiefly from the perspective of its reconstitution, Lawrence Stone and Jeanne C. Fawtier Stone take as their subject the demarcation strategies of the upper stratum of nobility that I have also emphasised: *An Open Elite?*, Oxford 1974.

*The purchase of commissions in the army and navy, and the social composition of the officer corps*

J. Childs 1976, Section 2; Anthony Bruce, *The Purchase System in the British Army*, London 1980, pp. 13–30; K. Wrightson 1982, p. 29. On the significance of factions for the local distribution of power: N. Landau 1984. On the codes of behaviour designed to help preserve titles, country seats and wealth: L. Stone and J.C. Fawtier Stone 1984, Part 2, Sections 2 & 4. For a recent interpretation of 'strict settlement' that no longer sees this as the cause of inheritance practices designed to maintain property, but rather as a formalisation of these: C.G.A. Clay 1984, Volume 1, p. 160; also L. Stone and J.C. Fawtier Stone 1984, p. 72.

*The 'monied interests'*

These appear in the text only from the publicised perspective of the lower gentry. For the actual development of conditions of appropriation by overseas trade and manufacturing production, cf. C.G.A. Clay 1984, Volume 2; D.W. Jones, 'London Merchants and the Crisis of the 1690s', in Peter Clark and Paul Slack (eds.) 1972, pp. 311–55. For the generalising (nationalising) of habitual modes of behaviour of the ruling estate: L. Stone and J.C. Fawtier Stone 1984, p. 34; K. Wrightson 1984, pp. 222–3; P. Jenkins 1983, p. 283.

### Chapter Three *The Estate Constitution of Public Power*

#### *The concept of interest in the eighteenth century*

Norma Landau, *The Justices of the Peace, 1679–1760*, Berkeley 1984, Part 1, Chapter 1 (also on their transformation); Geoffrey Shorter Holmes, *British Politics in the Age of Anne*, London 1967, p. 25; S.I. Tucker, *Protean Shapes: Study in Eighteenth-Century Vocabulary and Usage*, London 1967, pp. 210–12 (on the significance of a morally reprehensible material orientation). The so-called ‘Namierists’ interpret this phase differently from how I do. According to Lewis Namier’s influential study, eighteenth-century politics revolved exclusively around power and money: *The Structure of Politics at the Accession of George III*, London 1957.

#### a. *Dissolution of the personal power of the English monarchs* (p. 248)

##### *Significance of the Act of Settlement*

W.A. Speck, *Stability and Strife, England 1714–1760*, London 1977.

##### *The de facto limitation of royal prerogative power*

The importance of individual personality in the use made of the prerogative is stressed by Richard Pares, *King George III and the Politicians*, Oxford 1967 [1953], esp. p. 60. (Apart from this aspect of his argument, I follow Pares in many respects, and see his short book as one of the most important on the subject of de-personalisation.) For a systematic presentation of research results, see also the corresponding Chapters of Norman Chester, *The English Administrative System 1780–1870*, Oxford 1981. (Chester dates the definitive transition from ‘king to crown’ as late as the mid nineteenth century, but he bases this assertion particularly on contemporary modes of expression.) For the structural change in the prerogative power, cf. also the influential but contested contribution of E.A. Reitan, ‘The Civil List in Eighteenth-Century British Politics: Parliamentary Supremacy Versus the Independence of the Crown’, in *Historical Journal*, 3, 1966: 318–37. A very stimulating work, maintaining that the differences in form of government between the reign of George II and the early years of George III are attributable less to the different character of the two monarchs than to the structures of political parties at this time, is J.C.D. Clark, *The Dynamics of Change*, Cambridge 1982, passim, though this action-theory approach almost totally neglects the analysis of structural conditions. In connection with a look back at the ‘Namier debate’, Ian R. Christie deals with the refutation of earlier assumptions that George III suffered from a manic-depressive psychosis in his later years: ‘George III and the Historians – Thirty Years On’, in *Journal of the Historical Association*, 71, 32, 1986: 205–21.

##### *The development of political factions*

See here the sources listed for Section b, also: J.C.D. Clark, ‘A General Theory of Party, Opposition and Government 1688–1832’, in *Historical Journal*, 23, 2, 1980: 295–325; W.A. Speck 1977, pp. 4–5; J.H. Plumb, *The Growth of Political Stability in England 1675–1725*, London 1967, passim. Particularly once again on the development of court and country as a division into two major parties: Linda Colley, *In Defiance of Oligarchy. The Tory Party 1714–60*, Cambridge 1982. Generally on the persistence of Tory positions in the era of Whig supremacy, L. Colley 1982; Eveline Cruickshanks (ed.), *Ideology and Conspiracy. Aspects of Jacobitisms 1688–1759*, Edinburgh 1982 (the editor herself stresses the importance of ceremonial traditions for perpetuating the view of the monarchy’s personal character, p. 72). For the general development of parties, I recommend the papers and discussions of a colloquium: John Cannon (ed.), *The Whig Ascendancy*, London 1981; on the eventual dissolution of personal monarchy by the restructuring of factions into parties proper, cf. R. Pares 1967, Chapter 4; Norman Gash, *Reaction and Reconstruction in English Politics 1832–1852*, Oxford 1965, esp. 15–29.

*The restriction of royal patronage*

Generally for the reduction of government patronage (i.e. not just that of the king), W.D. Rubenstein, 'The End of "Old Corruption" in Britain 1780–1860', in *Past and Present*, 101, 1983: 57, 60; on the abolition of the power of ennoblement, Roy Perrot, *The Aristocrats*, New York 1968.

*The persistence of the monarch's political influence*

N. Chester 1981; Frank Hardie, *The Political Influence of the British Monarchy, 1868–1952*, London 1970; Ilse Hayden, *Symbol and Privilege. The Ritual Context of British Royalty*, Tucson, AZ 1987.

*Transformation of royal rule into the royal dignity of representative of a nation*

Ilse Hayden 1987; Linda Colley, 'The Apotheosis of George III: Loyalty, Royalty and the British Nation 1760–1820', in *Past and Present*, 102, 1984: 94–129. For the dating of the final transformation, I follow David Cannadine, 'The Context, Performance and Meaning of Ritual: The British Monarchy and the "Invention of Tradition" c. 1820–1977', in Eric Hobsbawm and Terence Ranger (eds.), *The Invention of Tradition*, Cambridge 1983, pp. 101–64.

b. *Objectification of local generalised power* (p. 253)

I refer in the text to the influential work of Harold Perkin, *Origins of Modern English Society*, London 1972 [1969], here esp. Chapter 2. For a discussion of Perkin's 'deference thesis', cf. R.S. Neale, *Class in English Society 1680–1850*, Oxford 1981, Chapter 3; David C. Moore, *The Politics of Deference*, New York 1976. On the thesis of a terror specific to the *ancien régime*, Edward P. Thompson, *Whigs and Hunters*, London 1975.

*Changes in local government (basis of recruitment, conduct and authority of office)*

My arguments are based chiefly on N. Landau 1984. For the political purging of the bench, cf. also L. Colley 1982. An excellent overview of the administrative changes is provided by the chapter on local government in N. Chester 1981. For regional differences, see Harry Hearder and H.R. Loyn (eds.), *British Government and Administration*, Cardiff 1974 (particularly the essay by D. Marshall); John Brewer and John Styles (eds.), *An Ungovernable People*, London 1980 (introduction).

*The 'rule of law'*

My presentation draws on E.P. Thompson's 1975 thesis that though eighteenth-century legislation must certainly be deemed a form of class rule, the distinctions between legal power and mere arbitrary power should be borne in mind (pp. 258–9). As an example of this Thompson refers to the fact that not all accused were actually condemned. More important seems to me the social selectivity that Norma Landau 1984 stresses. Similar arguments are made by Douglas Hay, in D. Hay et al., *Albion's Fatal Tree*, London 1975, pp. 1–64; also J. Brewer and J. Styles 1980 ('Pace the fiction of the "rule of law", justice was not necessarily the prerequisite of every Englishman' – introduction.) We should point out in this connection, however, that for Thompson, Hay and Linebaugh the practice of law is treated as a form of rule that 'handles' the change of social structures from an estate position. The advantage of this approach as against a more socially neutral notion of judicial norms, such as that represented by G.R. Elton (introduction to James S. Cockburn (ed.), *Crime in England 1550–1800*, London 1977, pp. 1–4) is stressed by Terry L. Chapman, 'Crime in Eighteenth-Century England: E.P. Thompson and the Conflict Theory of Crime', in *Criminal Justice History*, 1, 1980: 139–55.

*The game laws*

My arguments are based on R.B. Munsche, *Gentlemen and Poachers*, Cambridge 1981; idem. 'The Game Law in Wiltshire', 1750–1800, in J.S. Cockburn (ed.) 1977, pp. 210–28. Cf. also Douglas Hay, 'Poaching and the Game Law on Cannock Chase', in D. Hay et al. (eds.) 1975, pp. 189–254. James Fitzjames Stephen, *A History of the Criminal Law of*

*England*, London 1883, Volume 3, pp. 275–82: ‘The general effect of the history I have related is as follows: – A series of statutes extending over 317 years – 13 Rich 2, 1389 to 5 Anne, 1706 – erected the right to kill game into the privileges of a class at once artificial and ill defined. The game itself became incapable of being sold...’ (p. 281). ‘Lastly the severe penalties which had formed the crowning point of the old privilege became the sanction of the new incident of property’ (p. 282). Also F.M.L. Thompson, *English Landed Society in the Nineteenth Century*, London/Toronto 1963, pp. 142–150; but see the successful defence of the collective right to gleaning: Peter King, ‘Gleaners, Farmers and the Failure of Legal Sanctions in England, 1750–1850’, in *Past and Present*, 125, 1989: 116–150.

*The depersonalisation of local repressive power*

Frank Ogley Darvall, *Popular Disturbances and Public Order in Regency England*, London 1969 [1934], Chapter 13. On yeomen: F.C. Mather, *Public Order in the Age of the Chartists*, Manchester 1959, pp. 142–52. On the military, I base myself particularly on Tony Hayter, *The Army and the Crown in Mid-Georgian England*, London/Basingstoke 1978, *passim*; cf. also F.C. Mather 1959, pp. 153–85; F.O. Darvall 1969, Chapter 13.

c. The ‘Establishment’: transformation of church rule (p. 263)

This section only discusses the Church of England. Ecclesiastical development in Scotland, Ireland and Wales followed a different course. Even if the relationship of church and state in the rest of the British Isles was the subject of violent political conflict at Westminster, only the English development is decisive in the present context. For information on the development of the established churches in Scotland, Ireland and Wales, cf. G.I.T. Machin, *Politics and the Churches of Great Britain 1832 to 1868*, Oxford 1977.

For comprehensive presentations of the relationship between religion and politics in the period from the eighteenth to the twentieth century: Gordon Rupp, *Religion in England 1688–1791*, Oxford 1986; W.R. Ward, *Religion and Society in England 1790–1850*, New York 1973; and particularly recommended: Alan D. Gilbert, *Religion and Society in Industrial England. Church, Chapel and Social Change 1740–1914*, London/New York 1976. (Gilbert also deals particularly well with the social supporting groups of the respective denominations.) The most empirically informative sociological analysis of church membership (and its various conditioning factors) is Robert Currie, Alan D. Gilbert and Les Horsley, *Churches and Churchgoers. Patterns of Church Growth in the British Isles since 1700*, Oxford 1977. For an instructive comparison of the relationship between church hierarchy and state in England and France: Norman Ravitch, *Sword and Mitre. Government and Episcopate in France and England in the Age of Aristocracy*, The Hague/Paris 1966.

*The connection between religious and political tendencies*

A.D. Gilbert 1976, pp. 40–1 & *passim*, stresses that the ‘old Nonconformism’ was a political tendency and accordingly lost supporters in the upper ranks of society once political conditions stabilised. Cf. here de Krey’s thorough study of London as the centre of Nonconformism in the late seventeenth and early eighteenth century. The author however treats the connection between political and religious cleavages as a causal connection in which religious affiliation determined political allegiance (cf. p. 22): Gary Stuart de Krey, *A Fractured Society. The Politics of London in the First Age of Party 1688–1715*, Oxford 1985, esp. Part 2. De Krey analyses very precisely the anchorage of the various free churches in the different social groupings, establishes the ‘social prominence’ (!) of the Nonconformists (p. 19), but criticises the current notion of a special affinity of the trading bourgeoisie for Nonconformism (p. 75); his reference to the changing political status of Nonconformism is particularly relevant. During the 1660s Nonconformists were still in opposition to the government, but twenty years later the Whigs, who belonged mainly to the free churches, were a party of wealth and power (pp. 119–20).

The continuing political importance of religious conflicts and groupings has been stressed by Jonathan Clark in all his works. Cf. for example: J.C.D. Clark, *English Society 1688–1832: Ideology, Social Structure and Political Practice during the Ancien Régime*, Cambridge 1985. Joanna Innes, in a detailed critique of this and other works of Clark, formulates the objection, to my mind very pertinent, that he ascribes religious movements far too much autonomy and refrains from analysing their component causes – political ones included. Joanna Innes, 'Jonathan Clark, Social History and England's "Ancien Régime"', in *Past and Present*, 115, 1987, esp. pp. 194–8. G. Rupp 1986 stresses that the refusal of Anglican clerics to swear the oath to the succession demanded in 1701 must be seen as a political attitude (pp. 5–23). The attacks on Catholics, Unitarians and Methodists that were carried out under the slogan of 'Church and King' should also be viewed in connection with the unity of political, social and religious conflicts: Christopher Hibbert, *King Mob. The Story of Lord George Gordon and the Riots of 1780*, London/New York/Toronto 1958, passim. For attacks on Unitarians: W.R. Ward 1973, pp. 23–39; for attempts by the Whigs to stir up religious disturbances in the early eighteenth century, and government measures to hinder this: G.S. de Krey 1985, pp. 256–8; Joan Smith, 'Skill and Sectarianism in Glasgow and Liverpool', in R.J. Morris, *Class, Power and Social Structure in British Nineteenth-Century Towns*, Leicester 1986, pp. 166–8. On 'high church' and 'low church' orientations and conflicts: G. Rupp 1986, pp. 29–55, 59–64; N. Ravitch 1966, pp. 92–4, 100–2. For the dissolution of Convocation in 1717 and its political consequences: G. Rupp 1985, pp. 56–9; N. Ravitch 1966, pp. 197–200. For the social supporting groups of Evangelical missionary movements and the new 'dissent', a detailed treatment is Hugh McLeod, *Class and Religion in the Late Victorian City*, London 1974, cf. esp. also the statistical data in the appendix, pp. 295–324; idem, *Religion and the Working Class in Nineteenth-Century Britain*, London 1984; W.R. Ward 1973, pp. 11–12, 48–79; G. Rupp 1986, Part 5; W.J. Sheils and D. Woods (eds.), *Voluntary Religion*, London 1986; John Walsh, 'Origins of the Evangelical Revival', in G.V. Bennett and J.D. Walsh (ed.), *Essays in Modern English Church History*, London 1966.

#### *The recruitment of clergy*

G. Rupp 1986, Chapter 24 (on the intensification of competition arising from pressure into this profession, p. 494). For social composition, R.A. Soloway, *Prelates and People*, London/Toronto 1969, pp. 15–16, 433; N. Ravitch 1966, pp. 118–25. On the changing criteria for the selection of bishops, R. Pares 1967, pp. 189–90.

#### *The church courts as instances of local government*

For the church as instance for implementing uniformity and discipline (seventeenth to nineteenth centuries): H. McLeod 1974, pp. 215–20; R.A. Soloway 1969 (p. 5 on the alliance of squire and parson as a structural feature of the Establishment). The fact that the church appeared increasingly reactionary because of a change in social conditions is stressed by A.D. Gilbert 1976, pp. 77–8 (see pp. 131–7 on later reforms). For restrictions on participation in the vestries in the early nineteenth century, Sidney and Beatrice Webb, *The Parish and the County. English Local Government*, 1, 1963 [1906] (no place given), pp. 39–93. For later struggles over the vestries, John Foster, *Class Struggle and the Industrial Revolution*, London 1974, esp. Chapter 6.

#### *The state of the established church before 1832*

In addition to the works already cited, a contemporary publication is to be highly recommended: John Wade (ed.), *The Extraordinary Black Book. An Exposition of Abuses in Church and State, Courts of Law, Representation, Municipal and Corporate Bodies with a Precis of the House of Commons past, present and to come*, New York 1970 [1832], Chapter 1.

Chapter Four *The Revolutionising of the Forms of Rule of the Ancien Régime into Bourgeois State Power* (p. 269)

'Residues' of the ancien régime

Martin J. Wiener, *English Culture and the Decline of the Industrial Spirit*, Cambridge 1982 [1980]; A.P. Thornton, *The Habit of Authority, Paternalism in British History*, London 1966 (esp. Chapter 5); Roy Perrot, *The Aristocrats. A Portrait of Britain's Nobility and Their Way of Life Today*, New York 1986; Ilse Hayden, *Symbol and Privilege. The Ritual Context of British Royalty*, Tucson 1987; Karl Heinz Abshagen, *König, Lords and Gentlemen*, Stuttgart 1938 (the author worked for a long while as a journalist in England; cf. esp. pp. 140–68 on the public schools); John Scott, *The Upper Classes. Property and Privilege in Britain*, London/Basingstoke 1982; Perry Anderson, 'The Figures of Descent', in *New Left Review*, I, 161, 1987: 20–77.

*The debate on the 1832 Reform Bill*

See above all the very thorough empirical study by David C. Moore, *The Politics of Deference. A Study of the Mid-Nineteenth-Century English Political System*, New York 1976. Also G. Kitson Clark, *The Making of Victorian England*, London 1973 [1965]; Gottfried Niedhart, *Geschichte Englands im 19. und 20. Jahrhundert*, Munich 1987 (Chapter 2, Section 1). (This work can be used as an introduction to the state of research, but analytically it follows outmoded paths of modernisation theory and political history.) For the debate on further measures of electoral reform: G. Kitson Clark 1973 proposes 1867 as the end of the *ancien régime* (p. 230); F.B. Smith, *The Making of the Second Reform Bill*, Cambridge 1966; on the reform of 1884–5, A.P. Thornton 1955, pp. 289–91. For a critique of the orientation to aristocratic forms, David Nicholls, 'A Subordinate Bourgeoisie?', in Colin Barker and David Nicholls (eds.), *The Development of British Capitalist Society: A Marxist Debate*, Manchester 1988; Arno J. Mayer, *The Persistence of the Old Regime*, London 1981.

a. *Opening up of centralised power of office* (p. 274)

J.W. Fortescue, *A History of the British Army*, 12 vols., London 1976 [1910–30]; Boyd Hilton, *Corn, Cash, Commerce: The Economic Policies of the Tory Governments 1815–1830*, Oxford 1977; John Brewer, *The Sinews of Power*, London 1989; Edward P. Thompson, *Whigs and Hunters*, London 1975. For a survey of historical development, Henry Parris, *Constitutional Bureaucracy*, London 1969. Cf. also the thorough analytic article by G.E. Aylmer, 'From Office-Holding to Civil Service: The Genesis of Modern Bureaucracy', in *Transactions of the Royal Historical Society*, 30, 1980: 91–108. The best systematic presentation that I know is Norman Chester, *The English Administrative System 1780–1870*, Chapter 4, 'From Office to Employee'.

*The end of the direct purchase of government offices*

I.H. Plumb, *The Growth of Political Stability in England*, London 1967, p. 111 (also p. 108 on the general reduction in court offices).

*Illustration of earlier wrongs*

Above all, W.D. Rubinstein, 'The End of "Old Corruption" in Britain 1780–1860', in *Past and Present*, 101, 1983: 55–86; also Derek Jarrett, *Britain 1688–1815*, New York 1965, here pp. 342–3; B. Hilton 1977; E.P. Thompson 1975. Particularly on corruption in the tax administration, J.H. Plumb 1967, p. 117. I briefly indicated in the text but did not deal in any detail with the connection between developments in the state service and the general development of the 'professions', which in eighteenth- and nineteenth-century England essentially meant theology, law, public administration, medicine and architecture (later on also pharmacy). Cf. the informative essay by Edward Hughes, 'The Professions in the Eighteenth Century', in Daniel A. Baugh (ed.), *Aristocratic Government and Society in Eighteenth-Century England*, New York 1975, pp. 185–203.

*The 'economical reforms' of the civil service*

Above all, N. Chester 1981, Chapter 4. For earlier attempts to limit 'fees' and increase salaries, cf. W.A. Speck, *Stability and Strife. England 1714–1760*, London 1977, p. 42. For the political (as opposed to simply administrative) goals of reform, John Torrance, 'Social Class and Bureaucratic Innovation: The Commissioners for Examining the Public Accounts 1780–1787', in *Past and Present*, 78, 1978: 56–81; also Ian R. Christie, 'Economical Reform and "The Influence of the Crown", 1780', in *Cambridge Historical Journal*, 12, 1956: 144–54. A different viewpoint on this question, and to my mind less convincing, is represented by J. Steven Watson, *The Reign of George III, 1760–1815*, Oxford 1960, p. 247.

*The political neutralisation of ministerial administrative apparatuses*

Cf. G. Kitson Clark, "'Statesman in Disguise": Reflections on the History of the Neutrality of the Civil Service', in Peter Stansky (ed.), *The Victorian Revolution*, New York 1973, pp. 61–92. I have not engaged with the extensive discussion over the influence of Jeremy Bentham on the development of public administration, believing rather that the expansion of Benthamism in general, which is very demonstrable, only became possible in the wake of a depersonalisation of office power, and cannot be treated as an independent cause of rationalisation processes. J. Torrance 1978, pp. 56–81 also follows a similar line of argument.

*The reform movement within the administration*

This is depicted as the victory of an 'entrepreneurial ideal of behaviour' by Harold Perkins, *The Origins of Modern English Society* 1969, London 1972, esp. pp. 319–39. On the beginnings of legal reform that are not treated separately in the text, cf. here for a start the references in David Thomson, *England in the Nineteenth Century*, Harmondsworth 1950, p. 133.

*Interpretations of the opening up of centralised state power in terms of modernisation theory*

Maurice Bruce, *The Coming of the Welfare State, 1560–1960*, London 1965 [1961]; also the prevailing theme in P. Stansky (ed.) 1973. A critique of the thesis of the influence of specific theories of administration is put forward in Oliver MacDonagh, 'The Nineteenth-Century Revolution in Government: A Reappraisal', in *Historical Journal*, 1, 1958: 52–67, and this position discussed by Henry Parris, 'The Nineteenth-Century Revolution in Government: A Reappraisal Reappraised', in *Historical Journal*, 3, 1960: 17–37. Also Gillian Sutherland (ed.), *Studies in the Growth of Nineteenth-Century Government*, London 1972 (the contributors to this volume are principally concerned with theories of administration); David Roberts, 'Jeremy Bentham and the Victorian Administrative State', in *Victorian Studies*, 2, 1959: 193–210. The influence of Benthamism and thus of ideas of administrative theory is also stressed by Jennifer Hart, 'Nineteenth-Century Social Reform: A Tory Interpretation of History', in *Past and Present*, 31, 1965: 31–66.

*'Old Corruption'*

W.D. Rubinstein 1983, pp. 55–86 is an important essay on this subject. Pensions, sinecures and disproportionately high incomes were publicised for the first time in 1816, then repeatedly thereafter. The most detailed exposures were the 'black books' published by John Wade, e.g. *The Black Book: or Corruption Unmasked*, London 1820; idem, *The Extraordinary Black Book*, New York 1970 [1820].

a.1. *Structural change in the instruments of public power* (p. 280)*Armed force in general*

J. Brewer 1989.



*The navy*

For the earlier period (particularly on Samuel Pepys's administrative reforms and the personal influence of the king), cf. John Ehrmann, *The Navy in the War of William III 1689–1697*, Cambridge 1953. On manpower problems, cf. J.W. Fortescue 1976, Volume 4, Part 1, pp. 882–4. On the reforms of the mid-nineteenth century, C.J. Bartlett, *Great Britain and Sea Power 1815–1853*, Oxford 1963. On the development of the Admiralty and its relationship to civilian political instances in general, N.A.M. Rodger, *The Admiralty*, Lavenham 1979. For Lord Cochran's criticism of corruption within the navy and beyond, cf. Donald Thomas, *Cochran*, London 1978.

*The militia*

J.R. Western, *The English Militia in the Eighteenth Century*, London/Toronto 1965, passim; J.W. Fortescue 1976, Volume 6, esp. p. 81. On the decline of the militia, cf. F.C. Mather, *Public Order in the Age of the Chartists*, Manchester 1959, p. 141.

*The army*

Fortescue's magnum opus is still to be recommended. Besides his description of wars and battles, he offers quite remarkable social-historical analyses. On the present state of research, cf. J.M. Bereton, *The British Soldier. A Social History from 1661 to the Present Day*, London 1986. Peter Young and J.P. Lawford (eds.), *History of the British Army*, London 1970, is a purely military history, but useful for basic information on organisational developments. On trade in officer commissions, cf. Alan J. Guy, *Economy and Discipline. Officership and Administration in the British Army 1714–63*, Manchester 1985. On reforms, cf. D. Thomson 1950, pp. 131 ff. My own presentation is based in particular on the material and interpretative approach of Gwyn Harries-Jenkins, *The Army in Victorian Society*, London 1977. (Though this author makes no reference to the works of Pierre Bourdieu, his analysis can be read as one of the most penetrating historical depictions of the importance of habitual forms of behaviour as a form of power – 'capital' in Bourdieu's terms.) Cf. also F.C. Mather 1959, pp. 153–80. For the situation in the First World War, two outstanding publications may be mentioned: Denis Winter, *Death's Men* 1978, Harmondsworth 1979, and Gloden Dallas and Douglas Gill, *The Unknown Army*, London 1985. Cf. also Jan F.W. Beckett and Keith Simpson (eds.), *A Nation in Arms. A Social Study of the British Army in the First World War*, Manchester 1985 (especially the foreword by John Keegan, and Keith Simpson's own contribution); Robert Blake (ed.), *The Private Papers of Douglas Haig 1914–1919*, London 1952 (for the professional style of senior officers in the First World War).

b. *Separation of local power of office from the privileges of the landed nobility* (p. 288)

*The definition of the town and urban forms of local government*

P.J. Corfield, *The Impact of English Towns 1700–1800*, Oxford 1982, in particular Chapters 1 & 9; Judith Ryder and Harold Silver, *Modern English Society*, London 1970, esp. Chapter 2; Sidney and Beatrice Webb, *The Manor and the Borough (English Local Government)*, London 1963 [1908]; Robert M. Gutchen, 'Local Improvements and Centralization in Nineteenth-Century England', in *Historical Journal*, 4, 1961: 85–96; Alan Alexander, *Borough Government and Politics: Reading 1835–1985*, London 1985. The dominant view in the literature is that the industrial bourgeoisie quite rapidly came to prevail in the towns. Summary information in M.J. Daunt, "'Gentlemanly Capitalism' and British Industry 1820–1914", in *Past and Present*, 122, 1989: 119–58 (for further literature, see n. 84). My own interpretation follows the conclusions of David Cannadine and his students: D. Cannadine, *Lords and Landlords: The Aristocracy and the Towns 1774–1967*, Leicester 1980; idem (ed.), *Patricians, Power and Politics in Nineteenth-Century Towns*, New York 1982.

*The history of policing*

F.C. Mather 1959, pp. 81–140 (particularly also on special constables); Frank Ogley Darvall, *Popular Disturbances and Public Order in Regency England*, London 1969 [1934],

Chapter 13; John Brewer and John Styles (eds.), *An Ungovernable People*, London 1980; Leon Radzinowicz, *A History of English Criminal Law and its Administration from 1750*, Volume 2, London 1956 (the development of an 'incidental police' into the police as component of urban administration is depicted in pp. 202–406). On the differing public-order policy in the non-English regions of the British Isles and the colonies, J. Brewer 1989, Introduction; Stanley H. Palmer, *Police and Protest in England and Ireland 1780–1850*, Cambridge 1988.

b.1. *The rationalisation of the Poor Law* (p. 293)

I take a critical attitude here towards Karl Polanyi, *The Great Transformation*, London 2000 [1944]. For a different presentation of the 'Speenhamland system', cf. for example B.S. Watson 1960, pp. 527–9. The classical depiction of Poor Law policy before 1834, still indispensable today, is Sidney and Beatrice Webb, *English Local Government*, London 1963 [1929], vols. 8 & 9; also their earlier work *English Poor Law Policy*, London 1963 [1910]. Earlier research that remains important includes Dorothy Marshall, *The English Poor in the Eighteenth Century*, London 1926, and idem, 'The Role of the Justice of the Peace in Social Administration', in H. Hearder and H.R. Loyn (eds.), *British Government and Administration*, Cardiff 1974, pp. 155–68. The reports of investigatory commissions can be read in the *House of Commons Papers*; the most important of these – Nassau Senior's and Edwin Chadwick's report – has been republished separately: *Royal Commission on the Poor Law*, 1934. More recent research is summarised by Michael E. Rose, *The Relief of Poverty 1834–1914*, London 1972; also J.D. Marshall, *The Old Poor Law 1795–1834*, London 1973 [1968]. An essay offering a good introduction into this question, and stimulating in many respects, is James Stephen Taylor, 'The Impact of Pauper Settlement 1691–1834', in *Past and Present*, 73, 1976: 42–74. I take the illustrative reference to practice of the old Poor Law from D. Jarrett 1965. The connection between the Speenhamland system and the war situation is made particularly clear by Clive Emsley, *British Society and the French Wars 1793–1815*, London/Basingstoke 1979, Chapter 3. On 'Speenhamland' practice, see also Mark Neumann, 'Speenhamland in Berkshire', in E.W. Martin (ed.), *Comparative Development in Social Welfare*, London 1972, pp. 85–127. The first to refer to a 'Speenhamland system' was George Nicholls, *A History of the English Poor Law*, 1854. Karl H. Metz, 'Staatsraison und Menschenfreundlichkeit', in *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte*, 72, 1985: 1–26 argues almost exclusively in terms of a history of ideas, as does Peter Mathias, *The Transformation of England*, London 1979, Chapter 7. For my own earlier depiction, cf. Heide Gerstenberger, 'Staatliche Sozialpolitik als Instrument gesellschaftlicher Kontrolle. Zur englischen Armengesetzgebung im ersten Drittel des 19. Jahrhunderts', in *Kritische Justiz*, 4, 1976: 395–406.

For information on the labour market I base myself on E.L. Jones, 'The Agricultural Labour Market in England 1793–1872', in *Economic History Review*, 17, 1964–5: 322–38, as well as Arthur Redford, *Labour Migration in England 1800–1850*, 2nd edn., Manchester 1964. (Cf. p. 88: 'The English system of settlement and poor removal as amended in 1795 can hardly have tended to restrict migration so severely as did these contemporary regulations of continental countries.') For the dissolution of generalised norms of estate responsibility for the provisioning of the poor, cf. Edward P. Thompson, 'The Moral Economy of the English Crowd in the Eighteenth Century', in E.P. Thompson, *Customs in Common* London 1991, pp. 185–258. For characteristic earlier reform proposals, and in Fielding's case also influential ones, cf. Daniel Defoe, *For Employing the Poor. In and about the City of London. Without any Charge to the Publick*, reprinted London 1913; Henry Fielding, *A Proposal for Making an Effectual Provision for the Poor, for Amending their Morals, and for Rendering them Useful Members of the Society, to which is added a Plan of the Buildings Proposed with their Proper Elevation*, London 1753. Information on the possibilities for furthering the interests of the workers in the structures of the 'old Poor Law' rely on the work of John Foster, *Class Struggle and the Industrial Revolution*, London 1974, Chapter 3. (The importance of this work is not reduced by the author's

tendency to argue in terms of action theory.) I have also written elsewhere on the counterpart to the English rationalisation of the Poor Law in the North German Federation and later German Empire, a comparison that I draw on in the main text here. Cf. Heide Gerstenberger, 'Von der Armenpflege zur Sozialpolitik', in *Leviathan*, 1, 1981: 39–61; cf. also Norman Gash, *Aristocracy and People. Britain 1815–1865*, London 1979.

b.2. *Estate power of office and industrial conflict* (p. 297)

Generally, E.P. Thompson, *The Making of the English Working Class*, New York 1966 [1963]; idem, 'The Peculiarities of the English', in *Socialist Register*, London 1965, pp. 311–62 (here also on the basis of reformism); Dorothy Marshall, 'The Role of the Justice of the Peace in Social Administration', in H. Harter and H.R. Loyn (eds.) 1974, pp. 155–68. On the abolition of the Combination Laws and the last transportations of strikers despite vehement public protest, J.R. Dinwiddy, *From Luddism to the First Reform Bill*, Oxford 1986, pp. 73 ff.; 'First Report from the Select Committee on Combinations of Workmen', in *House of Commons Papers, Reports from Committees, 1837–38*, Volume 8. On labour conflicts in general, E.P. Thompson 1966; on Luddism, see above all F.O. Darvall 1969; for the 1830s, E.J. Hobsbawm and George Rudé, *Captain Swing*, New York 1969.

*The development of workers' organisations*

For a readily accessibly overview, Henry Pelling, *A History of British Trade Unionism* Harmondsworth 1976 (with a useful and commented bibliography); G.D.H. Cole and A.W. Filson (eds.), *British Class Movements. Selected Documents 1789–1875*, London/New York 1965. On the structural change in workers' organisations at the time of the Great Depression (crisis in the organisation of the interests of the labour aristocracy), Eric J. Hobsbawm, *Labour's Turning Point 1880–1900*, Brighton 1974 [1948]; Robert Looker, 'Shifting Trajectories: Perry Anderson's Changing Account of the Pattern of English Historical Development', in C. Barker and D. Nicholls (eds.) 1988, pp. 7–34.

c. *Dissolution of the ancien régime of appropriation* (p. 301)

My general arguments refer to the so-called Anderson-Thompson debate, and the thesis renewed by Anderson in 1987 of the failure of the bourgeoisie to introduce genuinely bourgeois forms of power and culture, or even a genuinely entrepreneurial capitalism. The weakness of Anderson's thesis in both its old and new versions lies in its lack of a class analysis. In the Marxian sense, the English nobility of the nineteenth century were actually bourgeois with unusual names, a lot of money (in most cases) and particular quirks. Perry Anderson, 'Origins of the Present Crisis', in *New Left Review*, I, 23, 1964; idem 1987; E.P. Thompson 1965. The collective volume of C. Barker and D. Nicholls (eds.) 1988 offers a debate on the Anderson theses. Wallerstein, in a stimulating essay directed against Anderson, puts forward the proposal that every bourgeois wanted to become an aristocrat, the logic of capitalism being something rather different from the psychology of capitalists: Immanuel Wallerstein, 'The Bourgeois(ie) as Concept and Reality', in *New Left Review*, I, 167, 1988: 91–106.

*The conditions of material reproduction of the nobility*

There is an on-going dispute over the material condition of the nobility, in particular the peers and the higher gentry, though for the time being relatively little in the way of detailed studies. The literature to date is summarised in John Cannon, *Aristocratic Century*, Cambridge 1984, Chapter 5. On the development of towns and rental income from land, D. Cannadine 1980, passim; also – especially on account of the case studies it includes – D. Cannadine (ed.) 1982. For the economic integration of the aristocracy into the rising social groups, J. Scott 1982. A fundamental work here is F.M.L. Thompson, *English Landed Society in the Nineteenth Century*, London/Toronto 1963.

c.1. *The repeal of the Corn Laws* (p. 302)

In general, H. Perkin 1972, especially Chapters 7 & 8. B. Hilton 1977 is particularly stimulating. On the organisation of the 'manufacturing interest', J.M. Norris, 'Samuel Garrett and the Early Development of Industrial Lobbying in Great Britain', in *Economic History Review*, 2nd series, 10, 1957–8: 450–60. On the free-trade movement, Kenneth Fielden, 'The Rise and Fall of Free Trade', in C.J. Bartlett (ed.), *Britain Pre-Eminent*, London 1969, pp. 76–100.

c.2. *The nationalisation of the East India Company's possessions* (p. 303)

Fundamental for the connection discussed here is Lucy S. Sutherland, *The East India Company in Eighteenth-Century Politics*, Oxford 1952. For the economic exploitation of India, Dan Nabudere, *The Political Economy of Imperialism*, London/Dar-es-Salaam 1977, Parts 1 & 2; Patrick Crowhurst, *The Defence of British Trade 1689–1815*, Folkestone 1977, Chapter 7. As an example of the specific local practices of destruction and exploitation, P.H.M. van den Dungen, *The Punjab Tradition*, London 1972. For an example of how the history of the British empire was still being written in the sense of the 'white man's burden', cf. Denis Richard and Anthony Quick, *Britain 1714–1851 A History of England. A Narrative for the Middle School, Volume 4*, London 1978 [1961], Chapter 22. The military defence against French influence and the campaigns of conquest in India can be found in P. Young and J.P. Lawford (eds.) 1970, Chapters 8 & 18. On later colonial charters, cf. for example John S. Galbraith, *Crown and Charter*, Berkeley 1974.

d. *From the 'political nation' to a national political public* (p. 308)

For the restriction of 'public opinion' in the eighteenth century, William Thomas Laprade, *Public Order and Politics in Eighteenth-Century England*, Westport 1971 [1936]; Sydney Checkland, *British Public Policy, 1776–1939*, Cambridge 1983, p. 12; Jonathan C.F. Clark, *English Society 1688–1832*, Cambridge 1985, p. 386 (particularly also for his choice of subjects). Like Clark, David C. Moore, 'Political Morality in Mid-Nineteenth Century England: Concepts, Norms, Violations', in *Victorian Studies*, 13, 1969: 5–36 stresses the long persistence of a restricted 'political nation'. On the irrelevance of local disturbances for government decisions, J.P.D. Dunbabin, *Rural Discontent in Nineteenth-Century Britain*, London 1974, p. 22. For the importance of popular disturbances for the implementation of the Second Reform Bill, Cowling writes that this is 'not as simple as is sometimes supposed'. The precise relationship between a wide public opinion and the conditions of political decision-making is the central theme of this author's work: Maurice Cowling, 1867. *Disraeli, Gladstone and Revolution*, Cambridge 1967, p. 241 & passim. Also John Stevenson, 'Social Control and the Prevention of Riots in England, 1789–1829', in A.P. Donajgradski (ed.), *Social Control in Nineteenth-Century Britain*, London/Toronto 1977, pp. 9–26.

*The Wilkes affair*

George Rudé, *Wilkes and Liberty*, Oxford 1962. Particularly on the affair of the 'general warrants', I.H. Plump, *England in the Eighteenth Century*, Harmondsworth 1980 [1950], pp. 120–3; John Brewer, 'The Wilkeites and the Law. 1763–74', in John Brewer and John Styles (eds.), *An Ungovernable People*, London 1980, pp. 128–71, esp. 129 ff. On the concept of 'virtual representation', Richard Pares, *King George III and the Politicians*, Oxford 1967 [1953], pp. 43 ff.; Edmund Burke, *Reflections on the Revolution in France and on the Proceedings in Certain Societies in London Relative to that Event: In a Letter Intended to Have Been Sent to a Gentleman in Paris*, London 1790 (eleven printings already in its first year of publication).

*The struggle against censorship and for press freedom*

Cf. also the literature on the Wilkes affair. Also Donald Thomas, *A Long Time Burning. The History of Literary Censorship in England*, London 1969 (particularly on the relevance

of economic structures and policies for the distribution of news: pp. 163–219. For the development of the press in the late eighteenth century, Ian R. Christie, *Myth and Reality in Late-Eighteenth Century British Politics*, London 1970, Chapter 15.

#### *The development and significance of political radicalism*

An overview of the extent, political weakness and drummed-up fear of 'radical' movements at the turn of the century is given by H.T. Dickinson, *British Radicalism and the French Revolution 1789–1815*, Oxford 1985. On the contemporary reaction, Robert R. Dozier, *For King, Constitution and Country*, Lexington, VA 1983; Austin Mitchel, 'The Association Movement of 1792–3', in *Historical Journal*, 4, 1961: 56–71. The period immediately after is depicted in J.R. Dinwiddy 1986. Generally, E.P. Thompson 1966; Craig Calhoun, *The Question of Class Struggle*, Oxford 1982. A notable critique of recent literature on radicalism is offered by Norman McCord, 'Adding a Touch of Class', in *History*, 230, 70, 1985: 410–19.

#### *Chartism*

Alex Wilson, 'Chartism', in J.T. Ward (ed.), *Popular Movements 1830–1850*, London 1970, pp. 116 ff.; Asa Briggs (ed.), *Chartist Studies*, London 1959; Gareth Stedman Jones, *Languages of Class*, Cambridge 1985; Eileen Yeo, 'Christianity in Chartist Struggle', in *Past and Present*, 91, 1981: 109–39. (This author's view is that religion was also relevant to the behaviour of Chartist workers.)

#### *Religion and politics*

The persistence of religious conceptions of politics (thus conceptions of the ancien régime) is proposed by Jonathan C.D. Clark 1985, particularly Chapters 4–5. (Clark equates theological utterances and practices of belief. For him England in the seventeenth century was a theocratic state, and he does not take into account such developments as the shift of Catholic aristocrats into the Church of England after the political failure of the Jacobite movement.) Also Jonathan C.D. Clark, 'On Hitting the Buffers. The Historiography of England's Ancien Régime', in *Past and Present*, 117, 1987: 195–207. This essay responds to the critique of Joanna Innes, 'Jonathan Clark, Social History and England's "Ancien Régime"', in *Past and Present*, 115, 1987: 165–200. For the tradition of dissent, E.P. Thompson 1965, pp. 311–62. More generally, W.R. Ward, *Religion and Society in England 1790–1850*, New York 1973, esp. Chapter 6; G. Kitson Clark, *The Making of Victorian England*, London 1973 [1965]. For the connection between economic and theological arguments, John Seed, 'Theologies of Power: Unitarianism and the Social Relations of Religious Discourse 1800–50', in R.J. Morris (ed.), *Class, Power and the Social Structure in Nineteenth-Century Towns*, Leicester 1986, pp. 107–56, especially pp. 140 ff. On Gladstone's religious justification of the need for political reforms, J.P. Parry, *Democracy and Religion. Gladstone and the Liberal Party 1867–1875*, Cambridge 1986, Introduction & pp. 153–64. For the legal and fiscal dismantling of the state-church constitution, R.B. Barlow, *Citizenship and Conscience. A Study in the Theory and Practice of Religious Toleration in England during the Eighteenth Century*, Philadelphia 1962; G.I.T. Machin, *Politics and the Churches in Great Britain, 1832 to 1868*, Oxford 1977. Machin discusses all aspects of the decline of the *ancien régime* in the Church of England (including the opening up of the universities, under Gladstone; changes in the formula for oaths, so that Jews could also become Members of Parliament; ending of the burial monopoly, etc.). For Catholic emancipation in the context of general political struggles, John Cannon, *Parliamentary Reform 1640–1832*, Cambridge 1973, pp. 191–3. David Nicholls, *Church and State in Britain since 1820*, London 1967, gives a collection of contemporary texts (especially on defence and criticism of 'establishment'). Similar texts are also reproduced in Sydney W. Jackmann (ed.), *The English Reform Tradition*, Englewood Cliffs, NJ 1965 (pp. 40–51 on Catholic political emancipation). Also Norman Gash, *Reaction and Reconstruction in English Politics 1832–1852*, Oxford 1965, *passim* (particularly on the abolition of the Test and Corporation Acts, the ending of the monopoly on education, the struggle over tithes). For the struggle over education, R.A. Soloway, *Prelates and People*, London/Toronto 1969, Chapter 11; Alan D. Gilbert,

*Religion and Society in Industrial England: Church, Chapel and Social Change 1740–1914*, London 1976, esp. Chapter 8; M. Cruickshank, *Church and State in English Education*, London 1963.

*The adaptation of the Church of England to the dissolution of the ancien régime*

For the opposition of the episcopacy to reform legislation: R.A. Soloway 1969, pp. 243–50 (for its collaboration on the reform of the Poor Law, pp. 167–77; for the administrative reform and adaptation of the parish structure together with the church building programme, pp. 329–48. See also A.D. Gilbert 1976, Part 3; Kenneth A. Thomson, *Bureaucracy and Church Reform. The Organizational Response of the Church of England to Social Change 1800–1965*, Oxford 1970 (also on the situation since the First World War, pp. 216–21). The surviving residues of the state-church constitution can be taken from the impressive brief structural analysis of Trevor Beeson, *The Church of England in Crisis*, London 1973 (on the present distribution of patronage rights, pp. 58, 96; on the continuing validity of freehold, which largely excludes the removal and replacement of clergy, p. 61; on George Bell's appointment as archbishop, p. 101).

*Secularisation*

Hugh McLeod, *Religion and the Working Class in Nineteenth-Century Britain*, London 1984; Logie Barrow, *Independent Spirits. Spiritualism and English Plebeians 1850–1910*, London/New York 1986.

*The rationalising of religious practice and the sacralising of secular contents of political culture*

That the spread of rationalist ideas was a general phenomenon also affecting the new dissent, see John Seed, 'Gentlemen Dissenters: The Social and Political Meanings of Rational Dissent in the 1770s and 1780s', in *Historical Journal*, 28th year, 1985: 299–305; A.D. Gilbert 1976, pp. 19–67. For the 'established' church, see in particular R.A. Soloway 1969, pp. 19–56 (adaptation to the doctrines of political economy, p. 107); on the sacralising of secular contents, Linda Colley, 'The Apotheosis of George III: Loyalty, Royalty and the British Nation', in *Past and Present*, 102, 1984: 120–3. The significance of the Christian religion for the dominant political culture in the Victorian age is the central focus of Hugh McLeod 1984 (explicitly on rationalism, p. 217). The bibliography of that work also offers access to this whole subject.

*The campaign for abolition of the slave trade*

Edith F. Hurwitz (ed.), *Politics and the Public Conscience. Slave Emancipation and the Abolitionist Movement in Britain*, London/New York 1973, Introduction; S.W. Jackmann (ed.) 1965, Introduction (this volume also reproduces William Pitt, Jr, 'The Iniquity of Slavery', pp. 12–37). For an explanation purely in terms of economic rationality, Richard Hart, *Slaves Who Abolished Slavery*, Kingston, Jamaica 1985; J.R. Ward, *British West Indian Slavery, 1750–1834*, Oxford 1988. (Ward proposes the view that improvements in the living conditions of slaves, and increases in productivity, had been implemented before 1834, and the emancipation represented an economic reversal for the slaveholders.) On a subsequent campaign, Norman McCord, *The Anti-Corn-Law League 1838–1846*, London 1968 [1958].

*Assessment of the effects of electoral reform(s)*

Again on the old suffrage: Lewis Namier, *The Structure of Politics at the Accession of George III*, London 1957 [1928], Chapter 2; Hermann Wellenreuther, *Repräsentation und Großgrundbesitz in England 1730–1770*, Stuttgart 1979. Many of the structures described by Wellenreuther still persisted in the nineteenth century, for example the distinction between 'closed' and 'open' villages, for which cf. G. Kitson Clark 1973, pp. 224–5; J.V. Beckett, *The Aristocracy in England 1660–1914*, Oxford/New York 1986, pp. 359–62. On this continuity, cf. also D.C. Moore 1976 (a very thorough empirical study, especially on the extent of 'urban' and 'landed' interests in particular constituencies). See also

F.M.L. Thompson, *English Landed Society in the Nineteenth Century*, London/Toronto 1963, p. 227 (emphasises the stronger influence of the electorate on politics after 1832); F.B. Smith 1966). For general presentations, J.B. Conacher (ed.), *The Emergence of British Parliamentary Democracy in the Nineteenth Century. The Passing of the Reform Acts of 1832, 1867 and 1884–1885*, New York 1971; Michael Brock, *The Great Reform Act*, London 1973; J. Cannon 1973.

*The persistence of aristocratic political hegemony*

F.M.L. Thompson 1963; W.L. Guttsman, *The British Political Elite*, London 1965.

*Education as a means of influencing public opinion*

H. Perkin 1976. On the development of elementary schools: David Wardle, *English Popular Education 1780–1970*, Cambridge 1970; idem, *The Rise of Schooled Society*, London/Boston 1974; Hans Günter-Thien, *Staat und Lehrerschaft. Zur historischen Genese bürgerlicher Erziehung in Deutschland und England 1790–1918*, Frankfurt/New York 1984.

e. 'Pomp and circumstance': the English form of bourgeois state power (p. 237)

The discussion in this section is based in essentials on the so-called Anderson-Thompson debate, and Anderson's later résumé of this; P. Anderson 1964; idem 1987; E.P. Thompson 1965, pp. 311–62. Also Tom Nairn, *The Enchanted Glass: Britain and its Monarchy*, London 1988; C. Barker and D. Nicholls (eds.) 1988; M.J. Daunton 1989; M.J. Wiener 1982; I. Wallerstein 1988. On processes of national integration, Philip Jenkins, *The Making of a Ruling Class. The Glamorgan Gentry 1640–1970*, Cambridge 1983; Michael Hechter, *Internal Colonialism. The Celtic Fringe in British National Development 1536–1966*, Berkeley 1975. On the production of heritage, Eric Hobsbawm, 'Inventing Traditions', in Eric Hobsbawm and Terence Ranger (eds.), *The Invention of Tradition*, Cambridge 1983; in the same volume, David Cannadine, 'The Context, Performance and Meaning of Ritual: The British Monarchy and the "Invention of Tradition" c. 1820–1977', pp. 101–64; I. Hayden 1987 (a brilliant sociological analysis). On the introduction of official court costume, Philip Mansel, 'Uniforms and the Rise of the Frac 1760–1830', in *Past and Present*, 96, 1982: 103–32 (pp. 115–21 on the Windsor uniform). On the integration of the monarchy but not yet the aristocracy in contemporary cultural and religious discourse, Linda Colley, 'The Apotheosis of George III: Loyalty, Royalty and the British Nation 1760–1820', *Past and Present*, 102, 1984: 94–129. On nationalism, Gerald Newman, *The Rise of English Nationalism. A Cultural History 1740–1830*, London 1987. (According to Newman, English nationalism was already established by 1789. As I see it, the context of this interpretation is very strongly marked by an intellectual history perspective. The *distribution* of particular behaviour patterns is left out of account.) On the transformation of patriotism (of the political radicals) into a conservative interpretation of society, Hugh Cunningham, 'The Language of Patriotism, 1750–1914', *History Workshop*, 12, 1981: 8–33. On the bourgeoisie's cultural hegemony, E.P. Thompson 1965; Eric J. Hobsbawm, *The Age of Capital, 1848–1875*, London 1975; H. Parkin 1972. On the transformation of the aristocracy, W.D. Rubenstein, *Elites and the Wealthy in Modern British History*, Sussex/New York 1987. (In this compilation, as well as its editor's own influential works, Rubenstein puts forward very clearly yet again the thesis of the persistence of aristocratic rule. But empirically he only refers to a long persisting position at the head of the property hierarchy that was challenged only by the commercial bourgeoisie, not the industrialists.) My own line of argument largely follows that of J.V. Beckett 1986. (For specific figures, cf. pp. 482–95, 'Counting the Aristocracy'.)

*The loss of the gentry's noble status*

Cf. the sources for Section b. Also J.V. Beckett 1986, Chapter 1; Robert M. Gutchen, 'Local Improvements and Centralization in Nineteenth-Century England', *Historical Journal*, 4, 1961: 85–96.

*The persistence of aristocratic political hegemony*

Norman Gash, *Reaction and Reconstruction in English Politics 1832–1852*, Oxford 1965, Chapter 5; idem 1979 (though cf. for example pp. 251, 259 on change in the structures of public opinion); J.V. Beckett 1986, p. 465; John Vincent, *The Formation of the Liberal Party 1857–1868*, London 1966, p. xii & passim; A.S. Turbeville, *The House of Lords in the Age of Reform 1784–1837*, Westport 1958; J. Scott 1982. For the disempowerment of the Upper House, Corinne Comstock Weston, 'The Liberal Leadership and the Lords' Veto 1907–1910', *Historical Journal*, 11, 1968: 508–37; Frank Hardie, *The Political Influence of the British Monarchy, 1868–1952*, London 1970, Chapter 5.

*Change in the practice of ennoblement*

Michael W. McCahill, 'Peerage Creations and the Changing Character of the British Nobility 1750–1830', *English History Review*, 96, 1981: 259–84. (McCahill indicates a fundamental change at the turn of the nineteenth century, basing this on the fact that public office now formed a stronger precondition for ennoblement than before. If the comparison is made with the fifteenth and sixteenth centuries instead of with the immediately preceding decades, then this thesis cannot be maintained.) See also F.M.L. Thompson 1963.

*The persisting economic importance of landed property along with the simultaneous decline in the aristocracy's position of local power*

D. Cannadine 1980; idem (ed.) 1982. On the gradual decline in the economic importance of landed property, G. Kitson Clark 1970, pp. 57, 249–50; J.V. Beckett 1986, pp. 85–90, 474; F.M.L. Thompson 1963.

### **Part Three**

#### **From Ancien Régime to Bourgeois Society: France (p. 323)**

'France' is referred to in the following chapters in a sense that had no reality at the time. *Francia* in the tenth and eleventh centuries meant both the Westphalian kingdom (sometimes, indeed, even the East Frankish one) and the actual basis of royal power. In the latter case, this included Aquitaine and Burgundy. As royal power was increasingly restricted, so the region described as 'France' shrunk accordingly. In the eleventh century, it referred only to the region around Paris and Orleans. At the same time, however, both Byzantine and Western scholars used the term 'Franks' for the Crusading armies.

I use 'France' here in a similar sense to the authors of the second volume of the *Histoire de la France urbaine*. This extends both to regions that later ceased to form part of France, and to those that only came later into a (closer) connection with the French kings. On the meaning of the word *Francia*, see: Elizabeth M. Hallam, *Capetian France 987–1328*, London/New York 1980, p. 6; Colette Beaune, *Naissance de la nation France*, Paris 1985, p. 310. On the use of 'France' in the *Histoire de la France urbaine* edited by Georges Duby, cf. Jaques Le Goff, Introduction to Volume 2, *La Ville médiévale*, Paris 1980, p. 25.

#### **Chapter One The Development of 'Feudal' Power Relations (p. 325)**

##### **a. The rule of the aristocracy (p. 325)**

##### **a.1. Princes and knights (p. 325)**

##### *The dissolution of royal rule and the significance of princely rule*

Karl Ferdinand Werner spent decades pointing out how unreliable it was to consider the period from the end of the ninth century to the fourteenth century simply under the rubric of a 'France' that either no longer existed or was not yet established. His



insight has now been generally accepted: K.F. Werner, 'Untersuchungen zur Frühzeit des französischen Fürstentums (9.–10. Jahrhundert)', in *Die Welt als Geschichte*, 18th year, 1958: 56–289; 19th year, 1959: 146–93; 20th year, 1960: 87–119. Cf. also E. Hallam 1980; Karl Bosl, *Europa im Aufbruch*, Munich 1980, Chapter 2; Walter Kienast, *Der Herzogstitel in Frankreich und Deutschland (9.–12. Jahrhundert)*, Munich/Vienna 1968. (Kienast shows that – differently from the French case – a ducal title in France gives no information as to the might of a territorial prince.)

#### *The emergence of seigneurie banale*

George Duby, *France in the Middle Ages 987–1460*, Oxford 1991 [1987]; Pierre Bonnassie, *La Catalogne du milieu du Xe à la fin du XIe siècle*, 2 vols., Toulouse 1976. For an excellent summary of the state of research, Jean-Pierre Poly and Eric Bournazel, *La Mutation féodale, X–XII siècles*, Paris 1980, here Chapter 1. A work that has had very great influence on research in recent decades is Georges Duby, *La Société aux XIe et XIIe siècles dans la région mâconnaise*, Paris 1982 [1971]. My own argument here is strongly influenced by Dominique Barthélemy, *Les Deux Ages de la seigneurie banale*, Paris 1984; see also André Debord, *La Société laïque dans les pays de la Charente, Xe–XIIIe siècles*, Paris 1984. On the difference between English manor and French *seigneurie banale*, Marc Bloch, 'Seigneurie française et manoir anglais' [1936], *Cahiers des Annales*, 16, 2nd edn., Paris 1967; also idem, *Les Caractères originaux de l'histoire rurale française* (2 vols.), Paris 1964 [1931], Volume 1, Chapter 3.

For the aristocratising of knights: Georges Duby, *The Early Growth of the European Economy. Warriors and Peasants from the Seventh to the Twelfth Century*, London 1974 [1973]; idem 1991; D. Barthélemy 1984; J.-P. Poly and E. Bournazel 1980; Philippe Contamine (ed.), *La Noblesse au Moyen Age, XIe–XVe siècles*, Paris 1976 (especially the introduction by Contamine and the contribution of Duby); Maurice Keen, *Chivalry*, New Haven/London 1984.

#### *On the material basis of castellania*

The foundation of this in the increased profitability it gave is especially well demonstrated by P. Bonnassie 1976, Volume 1, p. 540. Poly and Bournazel 1980, on the other hand, see this form of rule above all as an adaptation to the almost exclusively agricultural production of the tenth and eleventh centuries.

#### *The rise in productivity*

A summary of the current state of research can be found in *Cambridge Economic History*, Volume 1, edited by M.M. Postan, 2nd edn., Cambridge 1971, Chapter 3. For technical innovations, S.D. Skazkin, *Der Bauer in Westeuropa während der Epoche des Feudalismus*, Berlin (East) 1976; Lynn White Jr., *Medieval Religion and Technology*, Berkeley/London 1978; J. Gimpel, *Die industrielle Revolution des Mittelalters*, 2nd edn., Zurich/Munich 1981. Generally: Georges Duby and Armand Wallon (eds.), *Histoire de la France rurale*, Volume 1 (G. Bertrand et al.), *La Formation des campagnes françaises*, Paris 1975. My own argument follows J.-P. Poly and E. Bournazel 1980, Chapter 8. (This particularly deals with the historically prior structures of *desmesne* economy, and criticises earlier ideas about forms of rule and appropriation.) As an example of *castellania* being seen as successor to the Roman *villa*, cf. D. Barthélemy 1984, esp. p. 494. Cf. also in this connection F. Bange, 'L'Ager et la Villa; structures du paysage et du peuplement dans la région mâconnaise à la fin du Haut Moyen Age (IXe–XIe siècles)', in *Annales E.S.C.*, 39th year, 1984: 529–69. (In a certain fashion, this study supplements the work of Duby on structural preconditions that arose before Duby's more restricted timeframe.) Vito Fumagalli, *Der lebende Stein*, Berlin 1989 [1988] (Fumagalli criticises the notion that the extent of production resulted almost entirely by way of clearances, and stresses the renewed cultivation of fallow land that had gone wild, p. 33. The extraordinary importance of clearances, however, emerges very well also from the work of André Debord, where it is adduced by way of example: 1984, Part 3, Chapter 1.)

*Changing forms of kinship and inheritance*

D. Barthélemy 1980, pp. 183–94 & passim; Andrew W. Lewis, *Royal Succession in Capetian France. Studies on Familial Order and the State*, Cambridge, MA/London 1981; G. Duby 1991, Chapter 11; idem 1982, Chapter 5; P. Contamine (ed.) 1976, editor's introduction; Georges Duby, 'Transformations sociales dans le milieu aristocratique', in *La France de Philippe Auguste* (Colloque Paris 19 September–4 October 1980), ed. Robert-Henri Bautier, pp. 712–19.

a.2. *Bishops and abbots* (p. 331)

*Change in the structure of the church*

Ferdinand Lot and Robert Fawtier (eds.), *Histoire des institutions françaises au Moyen Age*, Volume 3: Jean-François Lemarignier, Jean Gaudemet, Mgr. Guillaume Mollat, *Institutions ecclésiastiques*, Paris 1962, Chapters 1 & 2; Jean-François Lemarignier, *La France médiévale*, Paris 1970, Chapter 5; G. Duby 1991, Chapter 7.

*The 'peace of God'*

Georges Duby has dealt with this development in a number of works. Cf. for example G. Duby, *The Legend of Bouvines. War, Religion, and Culture in the Middle Ages*, Berkeley 1990; J.-F. Lemarignier 1970, pp. 196–8. For a survey of the state of research and a very convincing overall interpretation, J.-P. Poly and E. Bourzanel 1980, pp. 234–61.

b. *Hierarchy and immunity* (p. 334)

b.1. *Structural change in seigneurial rule* (p. 334)

For the extension of *seigneurie banale* to the village and its articulation to princely rule, G. Duby 1971, passim, esp. Part 3; D. Barthélemy 1984, passim; A. Debord 1984, Part 3, Chapter 3. On change in the structure of vassalage, E.M. Hallam 1980, pp. 95–7 (p. 56 on the differences in the south); J.-P. Poly and E. Bourzanel 1980, Chapter 3 (also for a detailed treatment of regional differences). On the development of immunities, G. Duby 1982, pp. 449–61 and passim; E.M. Hallam 1980 (p. 57 for the south, p. 140 in general); George Duby (ed.), *Histoire de la France urbaine*, Volume 2 (ed. Jacques Le Goff) *La Ville médiévale*, Paris 1980, passim; Edmond Perrin, *Les Classes paysannes et le régime seigneurial en France du début du IXe siècle à la fin du XIIe siècle*, mimeographed, Les Cours de Sorbonne, n.d.; Peter Shervey Lewis, *Later Medieval France. The Polity*, London 1968 (p. 15 on the dominant mentality of 'immunity').

b.2. *Theocracy in 'France'?* (p. 338)

*The call for the First Crusade*

Régine Pernoud, *Les Hommes de la Croisade*, Paris 1977; W. Montgomery Watt, *The Influence of Islam on Medieval Europe*, Edinburgh 1972; G. Duby 1991, Chapter 7.

*The development of church rule*

F. Lot and R. Fawtier (eds.) 1962; J.-F. Lemarignier, Part 1; G. Duby 1991; idem, *L'Europe au Moyen Age*, Paris 1979 (Section 5 on the rise of cathedrals and cathedral schools).

*Conflicts within orthodoxy*

Kurt Flasch, *Das philosophische Denken im Mittelalter*, Stuttgart 1986 (also on the investiture conflict and the University of Paris); idem, *Einführung in die Philosophie des Mittelalters*, Darmstadt 1987; Herbert Grundmann, *Religiöse Bewegungen im Mittelalter*, Darmstadt 1977 [1935]; Henry Charles Lea, *A History of the Inquisition of the Middle Ages*, 3 vols., New York 1888–90. Particularly instructive is the *Cahier de Fanjeaux*, 6, 1971, 'Toulouse: "Le Credo, la morale et l'inquisition"'. For the crusades against the Cathars, Jacques Madaule, *Le Drame albigeois et l'unité française*, Paris 1973; Lothar Baier, *Die grosse Ketzerei*, Berlin 1984. For the support of royal rule by Cluny, G. Duby 1982.

b.3. *The development of royal rule (p. 342)*

For the demise of the Carolingian empire and the situation of royal rule under the first Capetians, Ferdinand Lot and Robert Fawtier, *Histoire des institutions françaises au Moyen Age*, Volume 2, *Institutions royales*, Paris 1958. (Lot and Fawtier point out that the fall of the Carolingian empire was an effect of social changes, and stress that it would have been easy to abolish the royal power altogether. On the whole, however, this is a work in the traditional vein of institutional history.) J.-F. Lemarignier 1979 (also institutional history); André Chédeville, *La France au Moyen Age*, Paris 1969 (rise and fall of Carolingian rule); Jean Dunbabin, *France in the Making. 843–1180*, Oxford 1985. Particularly recommended is E.M. Hallam 1980; this work can best be characterised as a socio-historical political history, the appendix also includes a discussion of the name of the royal lineage. During the French Revolution, Marat described all the kings from Hugo Capet (987) to Louis XVI as Capetians. Later this name was reserved for Hugo Capet and his direct descendants (until 1328). The derivation of the name is not quite clear, but Hugo was not the first of Robert's successors to be nicknamed Capet. There were many different legends about the name as early as the twelfth century. See also, John W. Baldwin, *The Government of Philip Augustus. Foundations of 'French' Royal Power in the Middle Ages*, Berkeley 1986; also G. Duby 1991. In the latter work Duby is clearly following a publisher's brief, offering a political history of the Middle Ages in the traditional sense. At the same time, however, he summarises here all his previous works of cultural and social history, and also gives in a certain sense a theoretical résumé and a readily accessible popular presentation; in other words, a masterwork.

*On the practices of succession and inheritance*

A. Lewis 1981 has achieved a key position. Apanages are interpreted as a systematic strategy for strengthening royal rule in Charles F. Wood, *The French Apanages and the Capetian Monarchy*, Boston 1966.

*The royal domains*

F. Lot and R. Fawtier 1958, p. 99; E.M. Hallam 1980, pp. 247–51 (indicates the changing significance of the notion of the sum of legal competences bound up with a territory). Excellent for the importance of economic development is Robert Fossier, *La Terre et les hommes en Picardie jusqu'à la fin du XIIIe siècle*, Paris 1968.

*The development of towns and urban culture*

The large-scale urban history that has appeared under the general editorship of Georges Duby is comprehensive and decisive. In the present connection, see in particular: *Histoire de la France urbaine*, Volume 2 (ed. Jacques Le Goff) *La Ville médiévale*, Paris 1980 (especially the introduction by Le Goff and the contribution by André Chédeville, Part 1, 'De la cité à la ville'). Other approaches include Paul Viollet, *Les Communes françaises au Moyen Age*, Geneva 1977 [1900]; Marie-Thérèse Lorcin, *La France au XIIIe siècle*, [no place given] 1975; H. Sée, *Louis XI et les villes*, Geneva 1974 [1891]. Also in the tradition of the 'partnership between crown and towns', Régine Pernoud, *Histoire de la bourgeoisie en France*, 2 vols., Paris 1960, 1962. For the 'histoire de la France rurale' in the south, Philippe Wolf, *Regards sur le Midi médiéval*, Toulouse 1978; G. Duby 1987, Chapter 12. On urban culture, G. Duby 1980, J. Le Goff 1980, Introduction. The development of towns is discussed in this section only with respect to the development of royal rule. The relationship between towns and the territorial princes, for its part, has so far been little studied.

*The general power context of 'society'*

G. Duby 1991, Chapter 9; Alain Guerreau, *La Féodalisme*, Paris 1980, passim; G. Duby 1982. Since this work on the county of Mâcon, the historiography of French feudalism has advanced to a new stage. It can be drawn on for all the questions discussed in this chapter.

*The aspect of conquest in the Albigenian crusade*  
E.M. Hallam 1980, pp. 133–6; Jacques Madaule 1973.

*The development of the cult of the royal person*  
P.S. Lewis 1968, p. 81; E.M. Hallam 1980, pp. 260 ff.; M. Bloch, *The Royal Touch*, London 1973 [1923]; Percy Ernst Schramm, *Der König von Frankreich*, Darmstadt 1960 [1939]; Frank Barlow, 'The King's Evil', in *English Historical Review*, 1, 1980, pp. 3–27. (As against Bloch, Barlow does not see the king's healing power as proven after Philippe I, but believes that both the specification of the *mal du roi* and the expectation of the king's healing property were actualised only in the reign of Louis IX, 1226–70.)

## Chapter Two *Plague, War and Difference* (p. 351)

*Poverty as a structural phenomenon of late medieval society*  
Michel Mollat, *Die Armen im Mittelalter*, Munich 1984 [1978]; Jean-Louis Goglin, *Les Misérables dans l'Occident médiéval*, Paris 1976. (Like Mollat, Goglin also emphasises that the numerical growth of *déracinés* in the towns from the twelfth century on signals a change in social structures.) Bronislaw Geremek, *Les Marginaux parisiens aux XIVe et XVe siècles*, Paris 1976 (an analysis with excellent theoretical reflections).

### *Social conflicts*

Michel Mollat and Philippe Wolff, *The Popular Revolutions of the Late Middle Ages*, London 1973; Jean Jacques, *Luttes sociales et grèves sous l'Ancien Régime*, Paris n.d.; Siméon Luce, *Histoire de la Jacquerie d'après des documents inédits*, Geneva 1978 [1894]; *Histoire de la France urbaine*, Volume 2, 1980, Part 3: Jacques Rossiaud, 'Crises et consolidations'; Guy Fourquin, *Les Soulèvements populaires au Moyen Age*, Paris 1972; Philippe Wolff, 'Les Luttes sociales dans les villes du Midi français du XIIIe au XVe siècle', in P. Wolff, *Regards sur le Midi médiéval*, Toulouse 1978.

### *The crisis of material and biological reproduction*

*Histoire de la France rurale*, Georges Duby and Armand Wallon (eds.), 2 vols., Paris 1975, esp. here Volume 2: Hugues Neveux, *Declin et reprise: la fluctuation biséculaire*, pp. 1 ff.; *Histoire économique et sociale de la France*, Fernand Braudel and Ernest Labrousse (eds.), Volume 1.2: E. Le Roy Ladurie and M. Morineau, *Paysannerie et croissance*, Paris 1977 (a work with a demographic orientation); Guy Bois, *The Crisis of Feudalism*, London 1978 [1976] (decidedly Marxist in orientation, very influential in the discussions of recent years); Michel Mollat, *Génèse médiévale de la France moderne*, Paris 1970 (on the indebtedness of the lords and the competition between towns). Henri Sée, *Louis XI et les villes*, Geneva 1974 [1891]; on the development of the crisis in the towns, Guy Fourquin, *Les Campagnes de la région parisienne à la fin du Moyen Age*, Paris 1964; Emmanuel Le Roy Ladurie, *Les Paysans de Languedoc*, Paris 1966 (a demographically oriented interpretation); Jacques Heers, *L'Occident aux XIVe et XVe siècles. Aspects économiques et sociaux*, Paris 1966 (a short summary presentation); Harry A. Miskimin, *The Economy of Early Renaissance Europe, 1300–1460*, Englewood Cliffs 1969 (chiefly descriptive).

On the particular character of cemeteries, Vito Fumagalli, *Der lebende Stein*, Berlin 1989 [1988], pp. 93–108. On the Black Death, Jean Noël Biraben, *Les Hommes et la peste en France et dans les pays européens et méditerranéens*, Paris/The Hague, 2 vols., 1975–6; M. Mollat 1984, Chapter 10; *Histoire de la France urbaine*, Volume 2, 1980, Part 3; G. Duby 1987, Chapter 14; *Histoire de la France rurale*, Volume 2, 1975, pp. 1–40 (H. Neveux); *Histoire économique et sociale de la France*, Volume 1.2 1977, pp. 485–582.

### *Invasion and internal war*

On the relation between the effects of war and pestilence, *Histoire de la France rurale*, Volume 2, 1975, pp. 40–80 (H. Neveux); Peter Shervey Lewis (ed.), *The Recovery of France in the Fifteenth Century*, New York 1971. Cf. here especially the work of Bernard Guenée on the development of the state in the Middle Ages, and the editor's introduction; also the contribution of Robert Boutruche, 'The Devastation of the Rural Areas

during the Hundred Years War and the Agricultural Recovery of France', pp. 23–59 (the extracts from contemporary sources that I have taken from Boutruche are cited only in paraphrase). Also Kenneth Fowler (ed.), *The Hundred Years War*, London/Basingstoke 1971, esp. the contributions of John Le Patourel (on the causes of the war) and John Palmer (on the respective war aims); Christopher Allmand, *The Hundred Years War*, Cambridge 1988; Harry A. Miskimin, *Money and Power in Fifteenth-Century France*, New Haven/London 1984 (the chapter on event history contains a brief summary of the development of the conflict with the dukes of Burgundy). Peter Shervey Lewis, *Later Medieval France. The Polity*, London/New York 1968 (Lewis's analysis of the war as a 'civil war' has fundamentally influenced my own interpretation; cf. also pp. 53–9 on the war economy). John Gillingham and J.C. Holt (eds.), *War and Government in the Middle Ages. Essays in Honour of J.O. Prestwich*, Cambridge/Totowa, NJ 1984, esp. M.G.A. Vale, 'The Gascon Nobility and the Anglo-French War 1294–98', pp. 134–46; Jean Favier, *La Guerre de Cent Ans*, Paris 1980.

*The intensification of royal rule in the period of crisis*

P.S. Lewis 1968, Chapter 2; C. Allmand 1988, Chapter 4; *Histoire de la France urbaine*, Volume 2, 1980, Part 3; *Histoire de la France rurale*, Volume 2, 1975, pp. 94–100.

### Chapter Three *The French Ancien Régime* (p. 359)

#### a. *Emergence of the ancien régime* (p. 359)

##### *Basic structures*

For a summary of the state of research on the emergence of the medieval nobility, see Timothy Reuter (ed.), *The Medieval Nobility*, Amsterdam 1979; Arno Borst (ed.), *Der Ritterstand im Mittelalter*, Darmstadt 1976; M.L. Bush, *Noble Privilege*, Manchester 1983 (Chapter 1).

#### a.1. *Estate constitution of the nobility* (p. 361)

For a general overview, M.L. Bush 1983. Also here on accession by purchase of a noble seat, p. 5; discussion of the legal formalisation in the fourteenth century, p. 7. Bush's work is stimulating for its attempt to classify the privileges of the nobility according to their origin and their subsequent accessibility or otherwise to non-nobles. Also, Philippe Contamine (ed.), *La Noblesse au Moyen Âge, XIe–XVe siècles. Essais à la mémoire de Roubert Boutruche*, Paris 1976 (especially the editor's introduction and the reprint of a celebrated essay by Philippe Wolff – Chapter 7 – in which Wolff shows that in the Toulouse region and quite likely in the south as a whole there was in fact no 'nobility' in the northern sense of the term until the fourteenth century, but only prominent and rich families). According to Wolff, the notion of 'noble' arose in the Midi only in connection with the emergence of an estate privileged in respect to royal rule. Philippe Contamine, 'The French Nobility and the War', in Kenneth Fowler (ed.), *The Hundred Years War*, London/Basingstoke 1971, pp. 163–83; Peter Shervey Lewis, *Later Medieval France*, London 1968, pp. 173, 182.

##### *The unity at this time of knighthood and 'gentillesse'*

In addition to the literature cited for Chapter 1.a.1, Michel Parisse, *Noblesse et chevalerie en Lorraine médiévale*, Nancy 1982, esp. pp. 61–3; Georges Duby, 'La diffusion du titre chevaleresque', in P. Contamine (ed.) 1976, Chapter 1; Maurice Keen, *Chivalry*, New Haven/London 1984, esp. Chapters 4, 7, 8. On the origin of the knightly habitus C. Stephen Jaeger has recently proposed a position departing from the prevailing opinion, which he sees as more strongly rooted in 'Germany'. His line of argument, however, is clearly in the vein of intellectual history: C.S. Jaeger, *The Origins of Courtliness*, Philadelphia 1985. On the significance of the dubbing of knights, Robert Boutruche, *Seigneurie et féodalité*, 2 vols., Paris 1968–70, here Volume 1, p. 58; J. Flori, 'Du nouveau sur l'adoubement des chevaliers, XIe–XIIIe siècles', in *Le Moyen Âge*, Volume 91, 1985.

*The crisis of seigneurie banale, the indebtedness and impoverishment of knights and counter-strategies against this*

Guy Bois, *The Crisis of Feudalism* 1978 has been particularly influential; also by the same author, 'Noblesse et crise des revenus seigneuriaux en France aux XIV<sup>e</sup> et XV<sup>e</sup> siècles', in P. Contamine (ed.) 1978, Chapter 10; *Histoire de la France rurale*, G. Duby and E. Labrousse (eds.), Volume 2, Paris 1975, pp. 403 ff. (Guy Fourquain) and Volume 2, Paris 1975, pp. 1 ff. (Hugues Neveux); *Histoire économique et sociale de la France*, F. Braudel and E. Labrousse (eds.), Volume 1.2 (E. Le Roy Ladurie and M. Morin), Paris 1977, esp. pp. 485–670; Georges Duby, 'The Great Estate at the End of the Middle Ages', in Peter Shervey Lewis (ed.), *The Recovery of France in the Fifteenth Century*, New York 1971, Chapter 10 (this first appeared in *Congrès et Colloques*, Volume 1: *Étude comparée du grand domaine depuis la fin du Moyen Age*, Stockholm 1960, Paris/The Hague 1960, pp. 333–42. My own argument here is strongly influenced by Hugues Neveux, 'Reconstructions économiques et rapports sociaux dans les campagnes françaises dans la seconde moitié du XV<sup>e</sup> siècle', in Bernard Chevalier and Philippe Contamine (eds.), *La France de la fin du XV<sup>e</sup> siècle*, Paris 1985, pp. 61–8.

*Robbery as a form of appropriation*

Siméon Luce, *Histoire de la jacquerie*, Geneva 1978 [1894], Chapter 1; Georges Duby, *Le Moyen Age*, Paris 1987, p. 274 (explains the particularly wide spread of brigandage in the Midi in terms of the combination of poor mountain dwellers and a developed money economy); Robert Boutruche, 'The Devastation of Rural Areas During the Hundred Years War and the Agricultural Recovery of France', in P.S. Lewis (ed.) 1971, Chapter 1.

*On income from war service*

Philippe Contamine, *Guerre, état et société à la fin du Moyen Age. Études sur les armées des rois de France. 1337–1494*, Paris 1972, Part 2; George Holmes, *Europe: Hierarchy and Revolt, 1320–1450*, Hassocks 1975, pp. 33–4.

On incomes from pensions and from participation in the collection of royal taxation, Peter Shervey Lewis, *Essays in Later Medieval France*, London/Ronceverte 1985, Chapter 7; idem, *Later Medieval France*, London 1968. For a general study of the transformation of the aristocracy into a privileged estate of the kingdom, Raymond Cazelles, *Société politique, noblesse et couronne sous Jean le Bon et Charles V*, Geneva 1982. On loss of nobility on grounds of poverty, Eduard Perroy, 'Social Mobility among the French Noblesse in the Later Middle Ages', in *Past and Present*, 21, 1962: 25–38; P. Contamine, in Kenneth Fowler (ed.), *The Hundred Years War*, London/Basingstoke 1976, pp. 135–62. On unsuccessful strategies of social advance, R. Cazelles 1982, pp. 81–4; on successful strategies, George Huppert, *Les Bourgeois Gentilhommes*, Chicago/London 1977.

*Ennoblement by letters patent*

P. Contamine, in K. Fowler (ed.) 1971, pp. 135–62; Elizabeth M. Hallam, *Capetian France. 987–1328*, London/New York 1980, pp. 290–1.

a.2. *Generalisation of royal rule* (p. 369)

For the political events of the mid fourteenth century, P.S. Lewis 1968; Michel Mollat and Philippe Wolff, *The Popular Revolutions of the Late Middle Ages*, London 1973.

*Development of royal armed force* (p. 370)

Philippe Contamine, *War in the Middle Ages*, Oxford 1984 [1980] (a succinct summary of the state of research on general developments in the kingdoms of the time that stood in a situation of armed competition with one another). Idem 1972 is the most thorough study so far in this field of research. In terms of structural analysis, it attains the same high level that Hans Delbrück reached in his works. Also P.S. Lewis 1968, pp. 42–52; Claude Gaier, 'Technique des combats singuliers d'après les auteurs "bourguignons" du XV<sup>e</sup> siècle', in *Le Moyen Age*, 91, 1985: 415–57; 92, 1986: 5–40; M. Keen 1987, Chapter 10 (on the secular knightly orders).

*Change in inheritance practices*

I base myself above all on P.S. Lewis 1968, pp. 206–9. This development is described in a quite opposite sense however by Pierre Chaunu, in *Histoire économique et sociale de la France*, Volume 1.1 1977, pp. 98–100 (equal partition in the north, favouring of the eldest son in the south).

*Writings attacking Louis XV*

Jacques Saint-Germain, *La Reynie et la police du Grand Siècle*, Paris 1962.

*Generalisation of royal fiscal power (p. 375)*

John Bell Henneman, *Royal Taxation in Fourteenth-Century France*, Princeton 1971; P. Contamine 1972 (especially on the transition from *arrière-ban* to taxation); James B. Collins, *Fiscal Limits of Absolutism*, Berkeley 1988, Chapter 1 (on the development from the fourteenth to the seventeenth century, with special reference to direct taxation); P.S. Lewis 1985, Chapter 2; G. Bois 1978, esp. pp. 177 ff.; *Histoire de la France rurale*, Volume 2, 1975; André Leguai, 'Émeutes et troubles d'origine fiscale pendant la règne de Louis XI', in *Le Moyen Age*, 73, 1967: 447–87; Margaret Wade Labarge, *Saint Louis. Louis most Christian king of France*, Boston/Toronto 1968; R. Cazelles 1982 (in the period from 1292 to 1360 indirect taxes rose sixfold, p. 16; on differing assessments, pp. 106–7); B. Chevalier and P. Contamine (eds.) 1985, esp. introduction (P. Contamine) and assessments of the development of the level of taxation, pp. 10–11 (Henri Dubois); *Histoire économique et sociale de la France*, Volume 1, 1977, Chapter 3; Alain Guery, 'Le Roi depensier. Le don, la contrainte, et l'origine du système financier de la monarchie française de l'Ancien Régime', in *Annales E.S.C.*, 39th year, 1984: 1241–68.

*Generalisation of royal judicial power (p. 376)*

Generally, Jean-François Lemarignier, *La France médiévale. Institutions et sociétés*, Paris 1970, esp. 347–72; *Histoire économique et sociale de la France*, Volume 1.1, 1977, pp. 90–128 (P. Chaunu) (an informative description, but not free of contradictions in its argument). For an emphasis on the importance of Roman law, cf. the standard work of Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, New York 1968 [1922], pp. 809 ff. Karl Bosl, *Europa im Aufbruch*, Munich 1980, pp. 155–6; James W. Fesler, 'French Field Administration', in J.B. Henneman (ed.) 1973, pp. 76–83. On the rise of *baillages* and *sénéchaussées*, and appeal jurisdiction, Joseph R. Strayer, *Les Gens de justice du Languedoc sous Philippe le Bel: Cahiers de l'Association Marc Bloch de Toulouse* 5, Toulouse 1970 (an analysis that extends far beyond its limited title); Harry A. Miskimin, *Money and Power in Fifteenth-Century France*, New Haven/London 1984. (Miskimin explains how the crown under Louis XI intervened in town government, demanding for example the provision of armed men from the guilds of Paris, after the guilds had for the first time become *choses du roi* following their request for assistance during the crisis, p. 95.)

*The development of the relationship between royal and church judicial power*

For a comprehensive presentation, Ferdinand Lot and Robert Fawtier (eds.), *Histoire des institutions françaises au Moyen Age*, Volume 3; *Institutions ecclésiastiques*, Paris 1962, here especially Part 1 (J.-F. Lemarignier) and Part 2 (Jean Gaudemet); J.-F. Lemarignier 1970, pp. 354–7 (a succinct and informative summary); J.H. Shennan, *Government and Society in France 1461–1661*, London 1969; S.H. Cuttler, *The Law of Treason and Treason Trials in Later Medieval France*, Cambridge 1981, esp. pp. 75–80; P.S. Lewis 1968 (on clerical privilege, pp. 170–3).

*Power of office and advancement (p. 383)*

For a thorough treatment of the sale of offices before 1522, Roland Mousnier, *La Vénérité des offices sous Henri IV et Louis XIII*, Paris 1971 (the relevant passages for our present connection were not contained in its first publication in 1945; Ilja Miecz (ed.), *Ämterhandel im Spätmittelalter und im 16. Jahrhundert* (colloquium in Berlin, 1–3 May 1980), Berlin 1984, including the presentations by Françoise Autrand, Kuno Böse and Klaus Malettké. For the persistence of 'medieval' practices, Christopher Stocker, 'Office as

Maintenance in Renaissance France', in *Canadian Journal of History*, 6, 1971: 21–43. On clientelism in general, cf. Hans-Heinrich Nolte (ed.), *Patronage und Klientel*, Cologne/Vienna 1989. For strategies of privatisation and social advance, *Histoire économique et sociale de la France*, Volume 1.1, 1977 (Chapters 2 and 4 by P. Chaunu). Roland Mousnier, *Le Conseil du Roi de Louis XII à la Révolution*, Paris 1970; idem, *Les Hiérarchies sociales de 1450 à nos jours*, Paris 1969; Françoise Autrand, *Naissance d'un grand corps de l'État. Les gens du Parlement de Paris. 1354–1454*, Paris 1981; Mikhaël Harsgor, 'Maîtres d'un royaume. Le groupe dirigeant français à la fin du XVe siècle', in B. Chevalier and P. Contamine (eds.) 1985, pp. 135–46; Jean-Louis Bourgeon, *Les Colbert avant Colbert*, Paris 1973; George Huppert, *Les Bourgeois Gentilhommes*, Chicago/London 1977 (a very stimulating analysis of the process of constitution of the privileged estates); Emmanuel Le Roy Ladurie, *L'État Royale de Louis XI à Henri IV*, Paris 1987.

*Bénéfices and Gallicanism* (p. 389)

*Histoire des institutions françaises au Moyen Age*, Volume 3, 1962, esp. Book 3 (Mgr. Guillaume Mollat); J.-F. Lemarignier 1970 (also on the prehistory and Agnani's assassination attempt, p. 272; P.S. Lewis 1968, Chapter 4; M. Harsgor, in B. Chevalier and P. Contamine (eds.) 1985; H.A. Miskimin 1984; J.H. Shennan 1969, Introduction.

*The 'French' form of generalisation of monarchical power* (p. 393)

For the burial ceremony, Ralph E. Giesey, 'Modèles de pouvoir dans les rites royaux en France', in *Annales E.S.C.*, 1986: 579–99. Generally on the 'religion royale'. R.E. Giesey 1986; Lawrence M. Bryant, 'La Cérémonie de l'entrée à Paris au Moyen Age', in *Annales E.S.C.*, 3, 1986: 513–42; Marina Valensise, 'Le Sacre du roi: stratégie symbolique et doctrine politique de la monarchie française', in *Annales E.S.C.*, 3, 1986: 543–77; P.S. Lewis 1968 believes that the royal cult was particularly promoted by the temporary weakness of royal power at the beginning of the reign of Charles VII, pp. 81 and 93; Bernard Guenée and Françoise Lehoux, *Les Entrées royales françaises de 1328 à 1515*, Paris 1968; E. Le Roy Ladurie 1987, Introduction; Eric Hobsbawm and Terence Ranger (eds.), *The Invention of Tradition*, Cambridge 1983, Introduction (E. Hobsbawm).

*The form of government practice*

P.S. Lewis 1985, esp. Chapter 8 ('The Failure of the French Medieval Estates') and Chapter 11 ('The Centre, the Periphery, and the Problem of Power Distribution in Later Medieval France'); idem 1968 (p. 378 on tyranny as a sign of weakness); A.R. Myers, 'The Parliaments of Europe and the Age of the Estates', in *History*, 60, 1975: 11–27 (the 'state of estates' as structural feature of European history, but little specifically on France); Bernard Guenée, 'The History of the State in France at the End of the Middle Ages, as Seen by French Historians in the Last Hundred Years', in P.S. Lewis (ed.) 1971, Chapter 12; William Beik, *Absolutism and Society in Seventeenth-Century France. State Power and Aristocracy in Languedoc*, Cambridge 1985 (though this work is mainly concerned with the seventeenth century, it can be read as a general introduction to the specific structure of local practice of generalised power; cf. esp. Part 2).

a.3. *The wars of religion* (p. 398)

For general presentations of the causes and course of the 'wars of religion', J.H.M. Salmon, *Society in Crisis. France in the Sixteenth Century*, London/Tonbridge 1975; N.M. Sutherland, *The Massacre of St Bartholemew and the European Conflict 1559–1572*, London 1973; Mark Greengrass, *France in the Age of Henri IV. The Struggle for Stability*, London/New York 1984; *Histoire économique et sociale de la France*, Volume 1, 1977; J. Russel Major, *The Estates General of 1560*, Princeton 1951; David Bitton, *The French Nobility, 1560–1640*, Stanford 1969; Ilya Mieck, *Toleranzedikt und Bartholomäusnacht*, Göttingen 1969; J.H. Shennan, *Government and Society in France 1461–1661*, London 1969.

*Theoretical conceptions of royal power*

Richard Nürnberger, *Die Politisierung des französischen Protestantismus*, Tübingen 1948; Ernst Hinrichs, *Fürstenlehre und politisches Handeln im Frankreich Heinrichs IV*, Göttingen



1969; Frederic J. Baumgartner, *Radical Reactionaries: The Political Thought of the French Catholic League*, Geneva 1975 (refers less to the nobles' league than to the league of Paris); Julian H. Franklin, *Jean Bodin and the Rise of Absolutist Theory*, Cambridge 1973; William Farr Church, *Constitutional Thought in Sixteenth-Century France*, New York 1969.

*The peasant uprisings*

Besides the works of M. Greengrass 1984 and J.H.M. Salmon 1975, see in particular Yves-Marie Bercé, *Fête et révolte. Des mentalités populaires du XVIe au XVIIIe siècle*, Paris 1976; Emmanuel Le Roy Ladurie, *Carnival in Romans. A People's Uprising at Romans 1579–1580*, New York 1979 [1979].

*Restoration and expansion of royal rule*

Besides the works of M. Greengrass 1984, J.H.M. Salmon 1975, and *Histoire économique et sociale de la France*, Volume 1.1, 1977, also David Buisseret, *Sully and the Growth of Centralized Government in France 1598–1610*, London 1968; Georges Picot, *Histoire des États Généraux*, Paris 1872, Volume 2, esp. pp. 41 ff.; François-André Isambert et al. (eds.), *Recueil général des anciennes lois françaises*, Volume 13, Paris 1928.

b. *Contradictory development of the ancien régime* (p. 405)

*Digression: The rise and fall of 'absolutism' in historical research*

*The rise of the notion of 'absolutism' and its critique*

Gerhard Oestreich, 'Strukturprobleme des europäischen Absolutismus', in *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte*, 55, 1969: 329–47; cf. also the literature cited for Part One, 2. For Marxist interpretations, Régine Robin, 'La Nature de l'état à la fin de l'Ancien Régime: Formation sociale, état et transition', in *Dialectiques*, 1 & 2, 1973: 31–54. (Robin sees the state as effective so long as both modes of production coexisted side by side in the seventeenth century, but falling into crisis in the eighteenth century when the capitalist mode of production began to get the upper hand (p. 218)). For an untypical Marxist interpretation, William Beik, *Absolutism and Society in Seventeenth-Century France*, Cambridge 1985. (Beik offers an excellent analysis of the concrete practice of government in Languedoc. He criticises the dichotomy of state and society as expressed in most interpretative models. Unfortunately he finds it necessary to maintain the concept of feudalism as a characterisation of the *ancien régime*, stretching the concept to 'extra-economic compulsion'. He involuntarily expresses this clearly on p. 30: 'If (sic) feudalism is defined as a society based on the extraction of an agricultural surplus from the peasantry by means of a system of extra-economic extraction which becomes a motif replicated in property relationships and social hierarchies, then it is possible to interpret absolutism as a type of feudalism.') Perry Anderson, *Lineages of the Absolutist State*, London 1974; B.F. Porschnew, *Die Volksaufstände in Frankreich vor der Fronde*, Leipzig 1954 (translated from the Russian; internationally the author's name is generally spelled as Porshnev). For an empirical critique of the absolutism concept: Eugene L. Asher, *The Resistance to the Maritime Classes. The Survival of Feudalism in the France of Colbert*, Berkeley/Los Angeles 1960. Summaries of the literature with their own proposals for synthesis include Peter Robert Campbell, *The Ancien Régime in France*, London 1988; Roger Mettam, *Power and Faction in Louis XIV's France*, London 1988.

b.1. *La monarchie absolue: structural change in generalised power* (p. 409)

For the state of research, P.R. Campbell 1988; also R. Mettam 1988 (this work centres on an analysis of government); Paul Sonnino, *Louis XIV and the Origins of the Dutch War*, Cambridge 1988; Norbert Elias, *The Court Society*, Oxford 1983 [1969]; Pierre Goubert, *Louis XIV et vingt millions de Français*, Paris 1966.

*Armed force (p. 412)**Generally on the change in military structure*

Hans Delbrück, *Geschichte der Kriegskunst*, Volume 4, Berlin 1962 [1920]; William H. McNeill, *The Pursuit of Power*, Oxford 1982 (clearly in the wake of Delbrück's interpretation); Michael Howard, *War in European History*, Oxford 1976 (not very accurate in details, but useful as an overview). Likewise with limitations, Samuel E. Finer, 'State- and Nation-Building in Europe', in Charles Tilly (ed.), *The Formation of National States in Western Europe*, Princeton 1975, pp. 84–163. On this particular question, V.G. Kiernan, 'Foreign Mercenaries and Absolute Monarchy', in *Past and Present*, 11, 1957: 66 ff. For a comparative analysis of the basis of power politics, Paul Kennedy, *The Rise and Fall of the Great Powers*, New York 1987. An outstanding special study is Christopher Duffy, *Siege Warfare. The Fortress in the Early Modern World, 1494–1660*, London/Henley 1979 (esp. Chapters 3 & 5).

*The establishment of the royal monopoly of armed force*

R. Mettam 1988 warns against overestimating this; J.F. Boshier, *The French Revolution*, London 1989, Chapter 3, emphasises the far-reaching basis of Louis XVI's government on force. On the significance of duels, François Billacois, *Le Duel dans la société française des XVI<sup>e</sup>–XVIII<sup>e</sup> siècles: essai de psychologie historique*, Paris 1986. Richard Bonney, *Political Change in France under Richelieu and Mazarin 1624–1661*, Oxford 1978 is still marked by the concept of absolutism. On the gradual – but very slow – development of a special administrative organisation, Douglas Clark Baxter, *Servants of the Sword. French Intendants of the Army 1630–70*, Chicago/London 1976 (shows that important functions remained with the *gouverneurs*, including the provisioning of troops, with fundamental transformations in the mid seventeenth century); Henry Bosc, *La Guerre des Cévennes 1705–1710*, 2 vols., Lille 1974.

*The development of a standing army*

Robert Chaboche, 'Les Soldats français de la Guerre de Trente Ans, une tentative d'approche', in *Revue d'histoire moderne et contemporaine*, 20, 1973: 10–24; Emile G. Léonard, *L'Armée et ses problèmes au XVIII<sup>e</sup> siècle*, Paris 1958 (stresses the collaboration of the nobility in the military reforms); André Corvisier, *L'Armée française de la fin du XVII<sup>e</sup> siècle au ministère de Choiseul. Le soldat*, 2 vols., Paris 1964; idem, 'Hiérarchie militaire et hiérarchie sociale à la veille de la Révolution', in *Revue internationale d'histoire militaire*, 30, 1970: 77–91; idem, *Armées et sociétés en Europe de 1494 à 1789*, Paris 1976; P. Goubert 1966; David D. Bien, 'La réaction aristocratique avant 1789, l'exemple de l'armée', in *Annales E.S.C.*, 29, 1974: 23–48 and 505–34. (This work interprets the 'decree of Ségur' as a measure of professionalisation, since it excluded those who had sought an officer's commission simply as a means of social advance. This takes the propaganda of aristocratic defence strategies at its face value, as the text itself makes clear.) Also Lee Kennett, *The French Armies in the Seven Years War*, Durham 1967; Anne Blanchard, '“Ingénieurs de sa majesté très chrétienne à l'étranger” ou l'école française de fortifications', in *Revue d'histoire moderne et contemporaine*, 20, 1973: 379–89; Jean-Claude Devos and Pierre Waksman, 'Les Compagnies d'ordonnance de la Guerre de Sept Ans à leur dissolution 1778', in *Revue d'histoire moderne et contemporaine*, 20, 1973: 37–53; Samuel F. Scott, *The Response of the Royal Army to the French Revolution. The Role and the Development of the Line Army 1787–1793*, Oxford 1978.

*The militia*

P. Goubert 1966; R. Mettam 1988; A. Corvisier 1976. On the special regulations for Paris, Jean Chagniot, 'Le Guet et la garde de Paris à la fin de l'ancien régime', in *Revue d'histoire moderne et contemporaine*, 20, 1973: 59–71.

*The navy*

P. Kennedy 1987; André Zysberg, 'Galleys and Galley Slaves in Late Seventeenth-Century France: An Image of Royal Power in the Reign of Louis XIV', in *Criminal Justice History*, 1, 1980: 49–115; Eugene L. Asher, *The Resistance to the Maritime Classes. The*

*Survival of Feudalism in the France of Colbert*, Berkeley 1960; James Steward Pritchard, *Louis XV's Navy. 1748–1762*, Kingston 1987.

*Fiscal power* (p. 426)

*General presentations*

Rudolf Goldscheid and Joseph Schumpeter, Rudolf Hickel (ed.), *Die Finanzkrise des Steuerstaats*, Frankfurt 1976; Charles Tilly (ed.), *The Formation of National States in Western Europe*, Princeton 1975 (contributions of Gabriel Ardant and Rudolf Braun).

*The tax system*

Marcel Marion, *Les Impôts directs sous l'Ancien Régime principalement au XVIIIe siècle*, Geneva 1974 [1910]; François Hincker, *Les Français devant l'impôt sous l'ancien régime*, Paris 1971 (on controversial questions of interpretation); James B. Collins, *Fiscal Limits of Absolutism. Direct Taxation in Early Seventeenth-Century France*, Berkeley 1988; William Beik, *Absolutism and Society in Seventeenth-Century France*, Cambridge 1985, Chapter 11; Roger Mettam, *Power and Faction in Louis XIV's France*, Oxford/New York 1988, Chapters 3 & 5; Pierre Goubert, *L'Ancien Régime*, 2 vols., 2nd edn., Paris 1969; idem, *Louis XIV et vingt millions de Français*, Paris 1966; Robert Mandrou, *Classes et luttes de classes en France au début du XVIIe siècle*, Messina/Florence 1965; George Durand, *États et institutions XVI–XVIIIe siècles*, Paris 1969; Nora Temple, 'The Control and Exploitation of French Towns During the Ancien Régime', in Raymond F. Kierstead (ed.), *State and Society in Seventeenth-Century France*, New York 1975, pp. 67 ff.; Peter Claus Hartmann, 'Die Steuersysteme in Frankreich und England am Vorabend der Französischen Revolution', in Ernst Hinrichs, Eberhard Schmitt and Rudolf Vierhaus (eds.), *Von Ancien Régime zur Französischen Revolution*, Göttingen 1978, pp. 43–65 (stresses the relatively higher tax burden in England). For the conflict between crown and *parlements* over tax legislation, cf. Bailey Stone, *The French Parlements and the Crisis of the Old Regime*, Chapel Hill/London 1986; idem, *The Parlement of Paris 1774–1789*, Chapel Hill 1981. René Stourm, *Les finances de l'Ancien Régime et de la Révolution*, New York 1968 [1885].

*'Law's system'*

Jean Bouvier offers a detailed description of Law's programme and the reasons why it failed in his contribution to F. Braudel and E. Labrousse (eds.), *Histoire économique et sociale de la France*, Volume 2, Paris 1970, pp. 280 ff. Cf. also H. Leclercq, *Histoire de la Régence*, Volume 1, Paris 1921. Whilst the politics of members of the *parlements* are generally attributed to their material interests, a different view is proposed by J.H. Shennan, 'The Political Role of the Parlement of Paris 1715–23', in *Historical Journal*, 8, 2, 1965: 179–200.

*The interpretation of uprisings in the 1630s and 1640s*

For literature on the Fronde, cf. the works cited under the section below on 'Judicial Power'. Also B.F. Porschnew, *Die Volksaufstände in Frankreich vor der Fronde*, Leipzig 1954; Roland Mousnier, *La Plume, la faucille, et le marteau*, Paris 1970. (This collective work reprints a critique of Porshnev that first appeared in 1958; idem, *Fureurs paysannes*, Paris 1967. For a summary of this long and stormy controversy, see Peter Robert Campbell, *The Ancien Régime in France*, Oxford 1988, pp. 32 ff. and further literature cited there). For analysis of particular uprisings, Yves-Marie Bercé, *Histoire des Croquants*, 2 vols., Paris 1974; idem, *Croquants et Nu-Pieds. Les soulèvements paysans en France du XVIe au XIXe siècle*, Paris 1974; idem, *Fête et révolte*, Paris 1976. (Long before the fashion for history 'from below', Bercé proposed a theoretically inspired interpretation of popular uprisings in the last of the works cited here. It can still be taken as a guide and standard for this genre of research.) Madeleine Foisil, *La Révolte des nu-pieds et les révoltes normandes de 1639*, Paris 1970; René Pillorget, 'Les "Casca-voux". L'insurrection aixoise de l'automne 1630', in *Dix-Septième Siècle*, 64, 1964: pp. 3 ff., reprinted in R.F. Kierstead (ed.) 1975; R. Mandrou 1965.

*Material exploitation of state debt (the financiers)*

Daniel Dessert, *Argent, pouvoir et société au Grand Siècle*, Paris 1984 (this impressive work is central to recent interpretation of the French ancien régime); A.D. Lublinskaya, *French Absolutism: The Crucial Phase. 1620–1629*, Cambridge 1968 [1960]; R. Mettam 1988; Jean Bouvier and Henri Germain-Martin, *Finances et financiers de l'ancien régime*, Paris 1969; Yves Durand, *Finances et mécennat*, Paris 1976; Pierre Goubert, 'Le 17<sup>e</sup> siècle d'historien', in idem, *Clio parmi les hommes*, Paris 1976, pp. 243 ff.

*Development of the tax 'administration'*

J.B. Collins 1988; R. Mettam 1988 (especially on *abonnements* and the taxation of the *pays d'état*); R. Mousnier 1974; R. Doucet, *Les Institutions de la France au XVI<sup>e</sup> siècle*, Paris 1948, Chapter 19; Richard Bonney, *Political Change under Richelieu and Mazarin 1624–1661*, Oxford 1978, Part 1 (follows the interpretative model of 'absolutism'); D. Buisseret, 'A Stage in the Development of the French "Intendants". The Reign of Henry IV', in *Historical Journal*, 9th year, 1966, pp. 27 ff. The following works of Boshier are central: J.F. Boshier, *French Finance 1770–1795. From Business to Bureaucracy*, Cambridge 1970; idem, *French Government and Society 1500–1850*, London 1973; idem, 'The French Crisis of 1770', in *History*, 57, 1972: 17–130; idem, *The French Revolution*, London 1989, esp. Chapter 4. Also Michel Antoine, *Le dur métier du roi*, Paris 1986, Part 1.

For the financial crisis of the 1780s, as well as all works cited for the Revolution, cf. in particular J.F. Boshier 1989. Cited in the text is Simon Schama, *Citizens. A Chronicle of the French Revolution*, London 1989.

*Judicial power (p. 443)*

R. Mettam 1988, esp. pp. 258–67; P.R. Campbell 1988, Chapter 3; B. Stone 1981; idem 1986. (Stone's favourite word in both works is 'ambivalent'. This conceptual *passerpartout* is one of the few failings of his interpretation, the thorough empirical basis of which could contribute greatly to correcting the notion of 'aristocratic reaction' or reducing this to its proper content. His work on the provincial *parlements* systematically compiles and assesses studies of the social composition of the courts and the wealth of magistrates.) Also J.F. Boshier 1989; idem (ed.) 1973 (in particular, John Mackrell's contribution 'Criticism of Seigneurial Justice in Eighteenth-Century France'); Jean Egret, *La Pré-Révolution Française 1787–1788*, Paris 1962; idem, *Louis XV et l'opposition parlementaire 1715–1774*, Paris 1970; Franklin L. Ford, *Robe and Sword. The Regrouping of the French Aristocracy after Louis XIV*, Cambridge, MA 1962.

*The crown's abandonment of local politics*

R. Mettam 1988; R. Beik 1988, pp. 15 ff. & *passim*. For examples from Paris, Isambert et al. (eds.), *Recueil général des anciennes lois françaises*, Volume 16, 1829, pp. 28 ff.; Archives nationales, AD I, 23 B, *ordonnance* of 28 December 1676.

*The Fronde and pre-Fronde*

B.F. Porschnew 1954; R. Mousnier 1970; P.R. Campbell 1988, pp. 64–7; Ernst H. Kossmann, *La Fronde*, Leiden 1954; Lloyd Moote, *The Revolt of the Judges*, Princeton 1971; *Registres de l'Hôtel de Ville de Paris pendant la Fronde*, published by the Société de l'Histoire de France, M. Le Roux de Luncy and Douet-D'Arco, Paris 1966 [1856] (including details on the course of events, such as church bell signals, etc.). For the *Ormée* in particular, Sal Alexander Westrich, *The Ormée of Bordeaux. A Revolt During the Fronde*, Baltimore/London 1972; this work is convincingly criticised in Eckart Birnstiel, *Die Fronde in Bordeaux 1648–1653*, Frankfurt 1985.

*Differing jurisprudence in the parlements*

For the defence of serfdom by the *parlement* of Besançon, B. Stone 1986; on the Paris *parlement's* struggle against witch trials, Robert Mandrou, *Magistrats et sorciers en France au XVII<sup>e</sup> siècle*, Paris 1968.

*The disempowerment of the parlements under Louis XV*

J.F. Bosher 1989; Jules Flammermont, *Le Chancelier Maupeou et les parlements*, Paris 1883 (the appendix include a *mémoire* from Maupeou to Louis XVI, from which the passage cited in the text is taken); idem (ed.), *Remontrances du parlement de Paris au XVIII<sup>e</sup> siècle*, Paris 1888.

*Sanctioning of conditions of appropriation by ruling power (p. 450)*

The dominant scholarly discussions are, firstly, the potential for modernisation of 'absolutist' state power, and secondly, that of feudalism or capitalism. On the first of these, cf. Eli F. Heckscher, *Mercantilism*, 2 vols., revised edition, London/New York 1955. For criticism of the 'Colbertian haze' that led to economic stagnation not being recognised, Pierre Goubert, *Clio parmi les hommes*, The Hague 1976 (esp. pp. 243 ff.); Fernand Braudel and Ernest Labrousse (eds.), *Histoire économique et sociale de la France*, Volume 2, Paris 1970 (Part 2 and *passim*). For the economic policy of Sully and Henri IV: David Buisseret, *Sully and the Growth of Centralized Government in France 1598–1610*, London 1968; Gustave Fagniez, *L'Économie sociale de la France sous Henri IV. 1598–1610*, Geneva 1965 (stresses the role of the crown in the economic upturn, esp. p. 75). On communications policy, cf. also *Cahier des états de Normandie sous le règne de Henri IV*, ed. Société de l'histoire de la Normandie, Rouen 1879 et seq., vols. 1 & 2.

On the question of feudalism or capitalism, I only cite here those works that are explicitly mentioned in the text, or which provide a summary of scholarly discussion (as well as appropriate literary references). Soboul's interpretation is particularly striking in Albert Soboul, 'La Révolution française et la "féodalité"'. Notes sur le prélèvement féodal', in *Revue historique*, 240, 1968: 33–56; cf. also idem, *The French Revolution, 1787–1799: From the Storming of the Bastille to Napoleon*, London 1989 [1962]; Claude Mazauric, *Sur la Révolution française*, Paris 1970 is a polemic against critics of Marxist historiography of the Revolution that falls below his other works in theoretical precision. A good discussion of the theoretical weaknesses in Soboul's works (especially in regard to his explanation of the revolution in terms of rational behaviour, the two-class conception and the 'anti-feudal' mass alliance) as well as in those of his critics is Gregor McLennan, *Marxism and the Methodology of History*, London 1981, Chapter 9. The debate as to whether the French Revolution actually was a class struggle was provoked by Alfred Cobban, *The Myth of the French Revolution*, London 1955, also by George V. Taylor, 'Noncapitalist Wealth and the Origins of the French Revolution', in *American History Review*, 72, 1967: 489–96. For a provisional summary of the revisionist position, Collin Lucas, 'Nobles, Bourgeois and the Origins of the French Revolution', in *Past and Present*, 60, 1973: 84–126; also (and so far the most closely argued) William Doyle, *Origins of the French Revolution*, Oxford 1980; idem, *The Ancien Régime*, Basingstoke/London 1986 (not confined to France). More recent and particularly clear is George C. Comninel, *Rethinking the French Revolution. Marxism and the Revisionist Challenge*, London/New York 1987. Debate on the thesis that the issue was essentially one of capitalist forms of appropriation is also documented in the collective work edited by Ralph W. Greenslaw, *The Social Origins of the French Revolution*, Lexington, MA 1975. Among German works, in particular Gilbert Ziebura, *Frankreich 1789–1870*, Frankfurt/New York 1979, Introduction and pp. 25–32; also the very thorough overall discussion by Rolf Reichardt, 'Bevölkerung und Gesellschaft Frankreichs im 18. Jahrhundert: Neue Wege und Ergebnisse der sozialhistorischen Forschung', in *Zeitschrift für Historische Forschung*, 4, 1977: 154–221.

For structuralist interpretations of the epoch, see in particular Régine Robin, 'Fief et seigneurie sans le droit et l'idéologie à la fin du XVIII<sup>e</sup> siècle', in *Annales historiques de la Révolution française* 1971: 554–602; Louis Althusser and Étienne Balibar, *Reading Capital*, London 1970, Part 3.

*The state of the debate on periodisation*

For new attempts at a structural analysis, Robert Brenner, 'Agrarian Class Structure and Economic Development in Pre-Industrial Europe', in *Past and Present*, 70, 1976: 30–51. The most sophisticated theoretically to date is G.C. Comninel 1987. For the ques-

tioning of the view that commercialisation meant capitalisation, cf. two fundamental works: Witold Kula, *Théorie économique du système féodal*, Paris/The Hague 1970; and Robert Brenner, whose theoretical position is expressed particularly clearly in 'The Origins of Capitalist Development: A Critique of Neo-Smithian Marxism', in *New Left Review*, I, 104, 1977: 25–92.

#### *Privilege as a structural feature*

Privilege as a general structural feature of society is emphasised by Olwen H. Hufton, *Europe: Privilege and Protest 1730–1789*, Ithaca, NY 1980, Chapter 2. This thesis is criticised by P.M. Jones, as it serves the revisionist interpretation to play down social contradictions (as I see it, this conclusion does not follow from the form of this analytical concept that I propose): P.M. Jones, *The Peasantry in the French Revolution*, Cambridge 1988, p. 44. My own argument is influenced by the work of Michael Sonenscher, *Work and Wages. Natural Law, Politics and the Eighteenth-Century French Trades*, Cambridge 1989, passim. For family strategies of acquiring privilege, D. Dessert 1984; J.B. Collins 1988; M. Sonenscher 1989. On particular complexes of privilege, such as seigneurial privileges, P.M. Jones 1988, passim. (This work not only gives a systematic summary of the state of research, but is also characterised by a particularly clear analytical conception.) Likewise a summary, but less analytical, is Gerd van den Heuvel, *Grundprobleme der französischen Bauernschaft. 1730–1794*, Munich/Vienna 1982. See also Eberhard Weis, 'Ergebnisse eines Vergleichs der grundherrschaftlichen Strukturen Deutschlands und Frankreichs vom 13. bis zum 18. Jahrhundert', in *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte*, 57, 1970: 1–14. The persisting economic importance of seigneurie is stressed by Paul de Saint Jacob, *Les Paysans de la Bourgogne du nord au dernière siècle de l'Ancien Régime*, Paris 1960. A similar conclusion is reached by Robert Forster, *The Nobility of Toulouse in the Eighteenth Century*, New York 1971 (stresses the support of the seigneurs by the *parlements*, p. 80, and assessments of income, p. 185); for types of seigneurie, Pierre Goubert, 'Sociétés rurales françaises du 18ième siècle', in idem 1986, p. 66; J. Meuvret, 'Domaines ou ensembles territoriaux? Quelques exemples de l'implication du régime de la propriété et de la structure sociale dans la France du XVIIe et du XVIIIe siècle', in *Congrès et Colloques. Etude comparée du grand domaine depuis la fin du Moyen Age* 1960, Paris/The Hague 1960, pp. 343–52; Guy Fourquin, *Les Campagnes de la région parisienne à la fin du Moyen Age*, Paris 1964 (for the thesis that labour relations scarcely changed). For rural wage-labour, besides the general works already cited, Maurice Bouvier-Ajam, *Histoire de travail en France des origines à la Révolution*, 2 vols., Paris 1957; still relevant here is the work of Georges Lefebvre, *Les Paysans du Nord pendant la Révolution Française*, Bari (abbreviated edition) 1959 [1923]; cf. also Pierre Goubert, *100,000 provinciaux au XVIIe siècle*, Paris 1958.

#### *The development of agricultural production*

For the differences between *grande culture* (cereals) and *petite culture*, P.M. Jones 1988. (Jones also has a good criticism of the assumption of an agricultural revolution.) Cf. on this point especially Michel Morineau, *Les Faux-Semblants d'un démarrage économique: agriculture et démographie en France au XVIIIe siècle*, Paris 1970; also 'Y a-t-il eu une révolution agricole en France au XVIIIe siècle?', in *Revue Historique*, 239: 299–326.

#### *Collective peasant privileges and strategies aiming at abolishing these*

P.M. Jones 1988, passim; G. van den Heuvel 1982; M. Sonenscher 1989, esp. p. 52. On privileges of office, cf. the literature cited above under 'fiscal power'.

#### *Trading, manufacturing and guild privileges*

I do not offer an analysis of economic development. One essential source to refer to is Ernest Labrousse, *Esquisse des prix et des revenus en France au XVIIIe siècle*, Paris 1933. Estimates of trends in the volume of trade can be found in F. Braudel and E. Labrousse (eds.) 1970, Volume 2, Chapter 2: *Hommage à Ernest Labrousse, Conjoncture économique, structures sociales*, Paris 1974 (especially the contribution by Georges Livet, 'Bourgeoisie et capitalisme à Strasbourg au XVIIIe siècle'. Livet explains how the economic existence of a large firm could depend right through to 1789 on its connections at court.) For the

necessary reservations against the success story of economic development in the eighteenth century that is widespread in revisionist literature – cf. as a new and especially striking example, S. Schama 1989, Chapter 5 – it is useful to refer to works that analyse the actual level of development in the nineteenth century, such as the collective work by Patrick Fridenson and André Straus, *Le Capitalisme français 19e–20e siècle*, Paris 1987. Also Maurice Lévy-Leboyer, 'Les processus d'industrialisation: les cas de l'Angleterre et de la France', in *Revue Historique*, 240, 1968, p. 281 ff.; and as a summary of research results, Heinz-Gerhard Haupt, *Sozialgeschichte Frankreichs seit 1789*, Frankfurt 1989.

#### *Regulations affecting the colonies and slavery*

'Recueil des principaux édits, déclarations, ordonnances, arrêts, sentences & règlements, concernant la justice, police & finances depuis le 29 Sept. 1722 jusqu'au 4 juin 1726', Paris 1758 et seq., Volume 1; also *Recueil général des anciennes lois françaises depuis l'an 420 jusqu'à la Révolution*, ed. François-André Isambert et al., Paris 1821 et seq., Volume 22 ('Édit relatif aux peines à infliger aux esclaves dans les colonies', no. 574). The most thorough study of the development of colonial trade and colonial policy is Jean Tarrade, *Le Commerce colonial de la France à la fin de l'Ancien Régime. L'évolution du régime de l'Exclusif de 1763 à 1789*, Paris 1972, 2 vols.

#### *Guild privileges*

M. Sonenscher 1989; William H. Sewell, Jr, *Work and Revolution in France*, Cambridge 1980, Chapters 2–4; François Olivier-Martin, *L'Organisation corporative de la France d'ancien régime*, Paris 1938; Jean Jacques, *Luttes sociales et grèves sous l'Ancien Régime. Vie et mort des corporations*, Paris n.d.; in general, M. Bouvier-Ajam 1957. An excellent local study that treats incidentally the question of the economic significance of the guilds is Olwen H. Hufton, *Bayeux in the Late Eighteenth Century*, Oxford 1967 (esp. Chapter 1). The general overestimation of the guilds' importance is discussed by R.B. Rose, *The Making of the Sans-Culottes*, Manchester 1983 (Chapter 1); Germain Martin, *Les Associations ouvrières au XVIIIe siècle, 1700–1792*, Geneva 1974 [1900]; Jean Bron, *Histoire du mouvement ouvrier français*, 3 vols., Paris 1968 (here Volume 1: Emile Coornaert, *Corporations en France avant 1789*, Paris 1941); idem, *Les Compagnonnages en France du Moyen Age à nos jours*, Paris 1966; E. Levasseur, *Histoire des classes ouvrières et de l'industrie en France avant 1789*, 2 vols., Paris 1900. The following works are reprinted together in an altogether excellent volume of *Annales E.S.C.*, 43rd year, 1988, 2: Jacques Revel, 'Présentation', pp. 295–9; Steven Kaplan, 'Les Corporations, les "faux ouvriers" et le faubourg Saint-Antoine au XVIIIe siècle', pp. 353–79; David D. Bien, 'Les Offices, les corps et le crédit de l'État: l'utilisation des privilèges sous l'Ancien Régime', pp. 379–404; Gail Bossenga, 'La Révolution française et les corporations: trois exemples Lillois', pp. 405–26. A local study from the *Annales* schools is Maurice Garden, *Lyon et les Lyonnais au XVIIIe siècle*, Paris 1971.

#### *Tax privileges*

See the literature cited for the previous section. For the higher taxation of peasants in general, particularly J.B. Collins 1988 (who makes a rare attempt to estimate the extent of this additional taxation, p. 13 & passim). The thesis of the material irrelevance of noble tax privileges is most sharply represented by Betty Behrens, 'Nobles, Privileges and Taxes in France at the End of the Ancien Régime', in *Economic History Review*, 15, 1962–3: 451–75. Also W. Beik, 'État et société en France au XVIIe siècle. La taille en Languedoc et la question de la redistribution sociale', in *Annales E.S.C.*, 39th year, 1984: 1270–97.

#### *On corvées and the development of communications*

Guy Arbellot, 'La Grande Mutation des routes de France au milieu du XVIIIe siècle', in *Annales E.S.C.*, 28, 1973: 765–91; Lucien Laugier, *Turgot ou le mythe des réformes*, Paris 1979 (pp. 62 ff. on the corvée). My discussion of Sully's communications policy is based on Dareste de la Chavanne, M.C., *Histoire de l'administration en France et des progrès du pouvoir royal*, Paris 1848, pp. 176 ff. For the debate on the corvée, B. Stone 1986, pp. 85 ff. and 116 ff.

*Reproduction of the ruling estates (p. 470)**The bourgeoisie of the ancien régime*

This expression was originally proposed by Régine Robin, and has come to be generally adopted. Cf. R. Robin 1971; Éléonor G. Barber, *The Bourgeoisie in 18th Century France*, Princeton 1955; Charles Normand, *La Bourgeoisie française au XVII<sup>e</sup> siècle*, Geneva 1976 [1908] (particularly on the *noblesse de robe*, whose expansion Normand ascribes to vanity and fear of more risky economic investments, the lack of a spirit of struggle and 'l'amour maladif de la distinction honorifique', p. 43); Georges Livet, 'Bourgeoisie et capitalisme à Strasbourg au XVIII<sup>e</sup> siècle. Sources et position des problèmes', in *Conjoncture économique, structures sociales. Hommage à Ernest Labrousse*, Paris 1974, pp. 389–405 (indicates a deeply rooted conservatism and resistance to the seductions of capitalist appropriation, p. 405; likewise that acquisition in trade and manufacture in the eighteenth century remained dependent on patronage); Georges Lefebvre, *Les Paysans du Nord pendant la Révolution française*, 2 vols., Bari (abbreviated edition) 1959 [1923]; George Huppert, *Les Bourgeois Gentilhommes*, Chicago/London 1977; Régine Pernoud, *Histoire de la bourgeoisie en France*, Volume 2, Paris 1962.

*The nobility in general*

M.L. Bush, *Noble Privilege*, Manchester 1983 (a comparative study of the European nobility, explaining also the difference between corporate and individual privilege); Jean-Pierre Labatut, *Les Noblesses européennes de la fin du XVe siècle à la fin du XVIII<sup>e</sup> siècle*, Paris 1978; Guy Chaussinand-Nogaret, *La Noblesse au XVIII<sup>e</sup> siècle*, Paris 1976; idem, *Une Histoire des élites 1700–1848*, Paris 1976. On developments under Louis XIV, R. Mettam 1988 (on duelling, against *mésalliances*, on appointment practice, on the remaining power of the nobility). Regional studies: Jean Meyer, *La Noblesse bretonne au XVIII<sup>e</sup> siècle*, 2 vols., Paris 1966 (for all the questions discussed in this section); Robert Forster, *The Nobility of Toulouse in the Eighteenth Century: A Social and Economic History*, New York 1971 [1960]; J.B. Wood, *The Nobility of the Élection of Bayeux. 1463–1666*, Princeton 1980.

*Processes of social advance*

H. Carré, *La Noblesse de la France et l'opinion publique au XVIII<sup>e</sup> siècle*, Geneva 1977 [1920]; R. Forster 1971, pp. 25 ff.; P.R. Campbell 1988, pp. 29 ff.; B. Stone 1986.

*The systematising of hierarchy*

J.-P. Labatut 1978; Alain Guery, 'État, classification sociale et compromis sous Louis XIV: la capitation de 1695', in *Annales E.S.C.*, 41st year, 1986: 1041–60, esp. pp. 1052 ff.

*The formalising of membership of the court nobility*

J.-P. Labatut 1978, pp. 58 ff.; André Corvisier, *Armées et sociétés en Europe de 1494 à 1789*, Paris 1976, p. 182; François Bluche, *La Vie quotidienne de la noblesse française au XVIII<sup>e</sup> siècle*, Paris 1973.

*The First Estate*

Norman Ravitch, *Sword and Mitre*, The Hague/Paris 1966, Part 5 (as well as all works cited on the nobility); Rolf Reichardt, 'Bevölkerung und Gesellschaft Frankreichs im 18. Jahrhundert: Neue Wege und Ergebnisse der sozialhistorischen Forschung 1950–1976', in *Zeitschrift für historischen Forschung*, 4, 1977: 154–221.

*The nobility's forms of appropriation*

Cf. the literature cited for the previous sub-section. Roger Chartier and Hugues Neveux, 'La Ville dominante et soumise', in George Duby (ed.), *Histoire de la France urbaine*, Volume 3 (this volume edited by Emmanuel Le Roy Ladurie), Paris 1981, Part 1 (summary of research results on the situation in particular towns). In the army: A. Corvisier 1976, p. 116. On the local pattern of appropriation structures, Michel Vovelle and Daniel Roche, 'Bourgeois, Rentiers and Property Owners. Elements for Defining a Social Category at the End of the Eighteenth Century' (first published 1959),



in Jeffry Kaplow (ed.), *New Perspectives on the French Revolution*, New York 1965, pp. 25 ff.; Pierre Goubert, *l'Ancien Régime*, 2 vols., 2nd edn., Paris 1969; Fernand Braudel and Ernest Labrousse (eds.), *Histoire économique et sociale de la France*, Volume 2, Paris 1970; P.M. Jones 1988; G. van den Heuvel 1982.

*Changes in self-conception*

J.F. Bosher 1989, Part 2; R. Mettam 1988, the general studies cited there. Also Hans Ulrich Gumbrecht, Rolf Reichardt and Thomas Schleich (eds.), *Sozialgeschichte der Aufklärung in Frankreich*, Part 1, Munich/Vienna 1981, editor's introduction, as well as the essay reprinted in this volume by Daniel Roche, 'Die "sociétés de pensée" und die aufgeklärten Eliten des 18. Jahrhunderts in Frankreich', pp. 77–115; F. Bluche 1973.

*The thesis of a merging of the two strata of nobility*

F.L. Ford 1962; for a critical perspective, Michel Vovelle, *La Chute de la monarchie, 1787–1792*, Paris 1977; Robert R. Harding, 'Aristocrats and Lawyers in French Provincial Government 1559–1646: From Governors to Commissars', in Barbara C. Malament (ed.), *After the Reformation. Essays in Honour of J.H. Hexter*, Manchester 1980. For a critique of Ford, R. Mettam 1988 and P.R. Campbell 1988. Neither of these two authors shares the view that a merger of this kind did not take place, they simply date it much earlier. François J. Bluche, *Les Magistrats du parlement de Paris au XVIII<sup>e</sup> siècle*, Paris 1960. A warning against this thesis is given by Roland Mousnier, *Lettres et mémoires adressées au chancelier Séguier. 1633–1649*, Paris 1964; Louis de Rouvroy, duc de Saint-Simon, *Memoirs: a shortened version*, London 1999 [1829].

*The thesis of the emergence of an élite stretching beyond the estates*

G. Chaussinand-Nogaret 1976; idem, *Une Histoire des élites 1700–1848*, Paris 1976; S. Schama 1989; Louis Bergeron, 'Die französische Gesellschaft von 1750 bis 1820', in *Historische Zeitschrift*, 4, 1977: 131–46; François Furet and Denis Richet, *French Revolution*, London 1970 [1965]; B. Behrens 1963, esp. p. 456; R. Reichardt 1977. For criticism of this view, Roland Mousnier, *Les Hiérarchies sociales de 1450 à nos jours*, Paris 1969; idem, *Les Institutions de la France sous la monarchie absolue, 1598–1789*, Paris 1974, Volume 1. Whilst Mousnier takes issue with the interpretation of the ancien régime as a class society, Vovelle's critique of the concept of élite comes from the direction that Mousnier opposes: Michel Vovelle, 'L'Elite ou le mensonge des mots', in *Annales É.S.C.*, 29, 1974: 49–72.

*Good order (p. 483)*

*Development of the apparatus of control and repression*

This subject is not specifically addressed in the text. It should be generally pointed out, however, that despite the expansion of this 'apparatus', the crown's projects of regulation continued to be effective only if they were supported by local instances. On the very weak establishment of government at village level, J.F. Bosher 1989, p. 80; generally on the renunciation of local politics, R. Mettam 1988. For a detailed investigation of police and judicial practices, Nicole Castan, 'Crime and Justice in Languedoc: The Critical Years 1750–1790', in *Criminal Justice History*, 1, 1980: 175–84. For the institutional development of the police, Marcel Le Clère, *Histoire de la police*, Paris 1973; A. Williams, *The Police of Paris 1718–1789*, Baton Rouge 1979 (this analysis is not confined to Paris); Jacques Saint-Germain, *La Reynie et la police au Grand Siècle*, Paris 1962; Clive Emsley, *Policing in its Context 1750–1870*, Oxford 1983 (a comparative study, not very helpful analytically). On the 'lettres de cachet', Arlette Farge and Michel Foucault, *Le Désordre des familles. Lettres de cachet des Archives de la Bastille au XVIII<sup>e</sup> siècle*, Paris 1982.

*Examples of police regulations on hygiene*

For the battle against the plague and the causes of its resurgence, Jean Meyer, 'Le XVII<sup>e</sup> siècle et sa place dans l'évolution à long terme', in *Dix-Septième Siècle*, 1975, 106–7: 3–22. For documentation on restrictions of trade in Languedoc, Lyonnais and the Dauphiné in connection with the plague epidemic Marseille in 1721: Archive Nationales,

AD XI 9. Generally on the regulation of medical provision, Camille Bloch, *L'Assistance et l'État en France à la veille de la Révolution*, Paris 1908. Decrees that only qualified doctors were allowed to practice, regulations made for Paris on 29 March 1696, for the whole kingdom in 1697 and for the control of education in 1707, are reprinted in François-André Isambert et al. (eds.) 1821–33, Volume 2, nos. 1599, 1608, 2031.

*The development of policing of the poor and beggars*

The most thorough presentation of the question is Olwen H. Hufton, *The Poor of Eighteenth-Century France*, Oxford 1974. Contemporary reports are also reprinted in detail in John Lough, *An Introduction to Eighteenth-Century France*, London 1960. For information on Paris, cf. George Rudé, *Paris and London in the 18th Century*, London 1974 [1972]; Auget de Montyon, *Recherches et considérations sur la population de la France*, R. Gonnard (ed.), Paris 1912 [1778]. For the development of policing the poor, the comprehensive work still decisive for reference today on legal measures is C. Bloch 1908. On the attempt to lock up the poor in the mid seventeenth century, P. Goubert 1969, Volume 1, p. 104. A systematic treatment of this subject, even if oriented more to legislative intentions than to actual developments, is Michel Foucault, *Discipline and Punish: The Birth of the Prison*, New York 1977 [1975]. A comprehensive depiction of earlier poor law policy is also contained in the 2. *Report du mendicité* of 1790, Archive Nationales AD XIV. The draconian decrees against beggars that are referred to in the text can be consulted in F.-A. Isambert et al. (eds.) 1821–33, the law of 1661 being reproduced in Volume 18, no. 1829; on deportations to the colonies, Volume 21, no. 175; likewise the *ordonnance* of 10 March 1720 (25, B 1). On statutory domicile, flogging and the galleys, cf. also Me. Edmé de la Poix de Fremerville, *Dictionnaire ou traité des villes, bourgs, paroisses et seigneuries de la campagne*, Paris 1758: Archive Nationales, ADI 22 A. That the prisons served chiefly as staging-posts to the galleys: Mireille Forget, 'Des Prisons au bagne de Marseille: la charité à l'égard des condamnés au XVIIIe siècle', in *Dix-Septième Siècle*, 90–1, 1971: 147–74. On educational practices, Yves Poutet, 'L'Enseignement des pauvres dans la France du XVIIIe siècle', in *Dix-Septième Siècle*, 90–1, 1971: 75–86; also M. Foucault 1977 and idem, *Madness and Civilization*, London 1967 [1965].

*The development of provisioning demands on the crown*

The most thorough work, which argues against the thesis that there was no more starvation in the eighteenth century, is Steven L. Kaplan, *Bread, Politics and Political Economy in the Reign of Louis XV*, The Hague 1976. Cf. Marquis René-Louis de Voyer d'Argenson, *Journal et mémoires*, E.H.B. Rathery (ed.) for the Société de l'Histoire de France, 9 vols., Paris 1859–67. On subsistence as a 'matter of state', see also E. Labrousse, in F. Braudel and E. Labrousse (eds.), *Histoire économique et sociale de la France*, Volume 2, 1970, esp. p. 463. On the 'flour war', George Rudé, *The Crowd in History. A Study of Popular Disturbances in France and England, 1730–1848*, London 1981, pp. 22–31; idem, 'The Outbreak of the French Revolution', in Ralph W. Greenlaw (ed.), *The Social Origins of the French Revolution*, Lexington, MA 1975, pp. 3 ff. On the general analytical problematic, E.P. Thompson, 'The Moral Economy of the English Crowd in the Eighteenth Century', in E.P. Thompson *Customs in Common*, London 1991.

*The legitimization of the church as a useful institution*

Michel de Certeau, 'Du Système religieux à l'éthique des lumières (XVIIe et XVIIIe siècles: la formalité des pratiques)', in *Richerche di Storia Sociale e Religiosa*, 2, 1972: 31–94. De Certeau is certainly influenced by Bourdieu's analytical approach. Cf. Pierre Bourdieu, 'Genèse et structure du champ religieux', in *Revue Française de Sociologie*, 3, 1971: 295–334. On Turgot's policies, Lucien Laugier, *Turgot et le mythe des réformes*, Paris 1979.

*Protestantism and the persecution of Protestants*

Warren C. Scoville, *The Persecution of Huguenots and French Economic Development 1680–1720*, Berkeley/Los Angeles 1960 (assesses the economic effects as rather low). In general, Richard Bonney, *Political Change in France under Richelieu and Mazarin 1624–1661*,

Oxford 1978 (esp. on the military conflicts). On the *dragonades*, W. Beik 1985, p. 39; for an assessment of its structural significance, J.F. Bosher 1989, p. 80. Also Philippe Joutard, *Les Camisards*, Paris 1976; Henri Bosc, *La Guerre des Cévennes 1705–1710*, 2 vols., Lille 1974; A. Lloyd Moote, 'Law and Justice Under Louis XIV', in John C. Rule (ed.), *Louis XIV and the Craft of Kingship*, Columbus 1969, pp. 224 ff., esp. p. 243.

#### *Jansenism*

P. Honigheim, 'Jansenismus', in *Die Religion in Geschichte und Gegenwart*, Volume 3 (1959 edition); Dale van Kley, *The Jansenists and the Expulsion of the Jesuits from France*, New Haven/London 1975 (an outstanding work, especially good on Molinism and the theological definition of Jansenism and Richerism, less exact on Gallicanism); Robert B. Kreiser, *Miracles, Convulsions and Ecclesiastical Politics in Early Eighteenth-Century Paris*, Princeton, 1978 (on the Saint-Médard cemetery, Chapter 5; the graffiti cited, p. 181; the distribution of publications, pp. 49, 67); René Taverneaux, *La Vie quotidienne des Jansenistes aux XVIIe et XVIIIe siècles*, Paris 1973; John Lough, *An Introduction to Eighteenth-Century France*, 5th edition, London 1970; R. Mettam 1988; Yann Fauchois, 'Jansénisme et politique au XVIIIe siècle', in *Revue d'Histoire Moderne et Contemporaine*, 34, 1987: 473–91.

#### *The long-term decline of Christianity*

V.L. Tapié, Y. Le Flem and A. Pardailhé, *Les Retales Caroques de Bretagne*, Paris 1972; Michel Vovelle, *Mourir autrefois*, Paris 1974. On the increase in masks critical of the church in Carnival festivities in the mid eighteenth century, Philippe Sagnac, *La Formation de la société française moderne*, Geneva 1979 [1878], p. 109, also passim on the subject in general.

#### *The cultural forms of the educated classes*

P.R. Campbell 1988, Chapter 2; D. Riche, in H.U. Gumbrecht, R. Reichardt and T. Schleich (eds.) 1981, pp. 77–116 (on learned societies); Richard Sennett, *The Fall of Public Man*, Cambridge 1977; on the press, Jack R. Censer, 'Die Presse des Ancien Régime im Übergang – eine Skizze', in Reinhart Koselleck and Rolf Reichardt (eds.), *Die Französische Revolution als Bruch des gesellschaftlichen Bewußtseins*, Munich 1988, pp. 127–52 (includes references to other literature that is important in this connection); Stephen Botein, Jack R. Censer and Harriet Ritvo, 'La Presse périodique et la société anglaise et française au XVIIIe siècle: une approche comparative', in *Revue d'Histoire Moderne et Contemporaine*, 32, 1985: 209–36; *Journal et mémoires du marquis d'Argenson*, E.H.B. Rathery (ed.) 1859–67. Crown decrees are reproduced in François-André Isambert et al. (eds.), *Recueil general des anciennes lois françaises*, 29 vols., Paris 1821–3, e.g. the censorship regulations formulated by Colbert in August 1686 appear in Volume 20, no. 1233; the Code de la Librairie of 1723 in Volume 21, no. 279; the attempt repeated in 1739 to limit the number of printing presses in Volume 22, no. 532. Reinhart Koselleck, *Kritik und Krise*, 3rd edition, Frankfurt 1979, ascribes great significance to the Masonic lodges and the Enlightenment in general for the development of the Revolution. Joseph Klaitz, *Printed Propaganda under Louis XIV*, Princeton 1976, deals with the crown's counter-strategy which sought to influence 'public opinion' via the episcopate and the *gouverneurs* at the time of the peace negotiations of 1709 (pp. 212 ff.). Also Lionel Rothkrug, *Opposition to Louis XIV. The Political and the Social Origins of the French Enlightenment*, Princeton 1965.

#### *The king's attitude*

J.F. Bosher, *The French Revolution*, London 1989. Simon Schama's reference to Marie-Antoinette's integration into the spirit of the time fits in with the same line of argument (according to Bosher, Louis XVI's mental attitude to his personal fate led him to delay in responding to events). Her enthusiasm for nature and her contempt for court ceremonial were held against her (Schama 1989, Chapter 4).

b.2. Le roi soleil? (p. 506)

*The development of court ceremonial*

J.P. Labatut 1978, pp. 58 ff.; F. Bluche 1973; Norbert Elias, *The Court Society*, Oxford 1983 [1969]; Gilette Ziegler (ed.), *Der Hof Ludwigs XIV in Augenzeugenberichten* (foreword by G. Ziebura), Düsseldorf 1964; Orest Ranum, 'Courtesy, Absolutism and the Rise of the French State 1630–1660', in *Journal of Modern History*, Volume 52, 1980: 426–51; Louis de Rouvroy, duc de Saint-Simon, *Memoirs: a shortened version*, London 1999 [1829]. (References given to *Die Memoirs des Herzogs von Saint-Simon*, 4 vols., Frankfurt 1985.)

*The changing relationship between the high nobility and the crown*

A.D. Lublinskaya 1968, Chapter 5; R. Bonney 1978, Chapter 13; Klaus Malettke, *Opposition und Konspiration unter Ludwig XIV*, Göttingen 1976 (deals with three noble conspiracies); R. Mettam 1988.

*Polisynodie*

Most substantially, H. Leclercq, *Histoire de la régence pendant la minorité de Louis XV*, 3 vols., Paris 1921 et seq. The concept supposedly stems from Saint-Pierre, but was decisively put forward only in the second half of the eighteenth century. Cf. Charles-Irénée Castel de Saint-Pierre, *Discours sur le polysynodie*, Amsterdam 1719; Jean-Dominique Lassaing, *Les Assemblées de la noblesse de France au XVIIe et XVIIIe siècles*, Paris 1962.

*The personal character of the king's rule*

Herbert H. Rowen, *The King's State*, New Brunswick, NJ 1980 (against the interpretation of a royal office); idem, in J.C. Rule (ed.) 1960, pp. 302 ff.; Roland Mousnier, *Les Institutions de la France sous la monarchie absolue. 1598–1789*, 2 vols., Paris 1974; M. Antoine 1986, Chapters 9 & 10; Marquis d'Argenson 1859; Marc Bloch, *The Royal Touch*, London 1973 [1923]; Carlo Ginzburg, *Clues, Myth, and the Historical Method*, Baltimore 1989 [1981].

*Louis XVI*

Andrew Freeman, *The Compromising of Louis XVI*, Exeter 1989. Freeman demonstrates how the private archives that Louis XVI prepared after the outbreak of the Revolution show his attitude to the events and his expectations. This small publication of some 100 pages is a historiographical event, and also reveals how historical interpretation has remained governed until very recently by rumours about the contents of the *armoire de fer*.

b.3. Privatised generalised rule: the crisis-prone structure of the ancien régime (p. 512)

*Indications on material living conditions*

Maurice Garden, *Lyon et les lyonnais au XVIIIe siècle*, Paris 1971; O.H. Hufton 1974; P.R. Campbell 1988.

*Population growth and the explanation of demographic developments*

Jacques Dupâquier, 'Les Mystères de la croissance', in *Conjoncture économique, structures sociales. Hommage à Ernest Labrousse*, Paris 1974, pp. 269–86. This discusses the state of research, which at that date can be summed up by saying that none of the general contentions previously put forward are sustainable. For a good summary of more recent debate, P.M. Jones 1988, Chapter 1.

*The development of agriculture*

See references for the section on conditions of reproduction, as well as P.M. Jones 1988, Chapter 1.

*Office property as a cause of crisis*

This aspect is often ignored in presentations of institutional history, or else it is not ascribed any significance. Cf. by way of example Ernest Baker, *The Development of Public Services in Western Europe. 1660–1930*, Hamden 1966; Pierre Legendre, *Histoire de l'administration de 1750 à nos jours*, Paris 1968. Roland Mousnier on the other hand stresses that 'la venalité et l'hérédité des offices étaient désastreuses. Mauvais recrutement des officiers, tentations et facilité de prévariquer, abandon du commerce et de l'industrie, surcharge des finances royales par les gages et droits, mécontentement de la noblesse, du clergé, d'une partie du tiers état', in idem, *La Vénalité des offices sous Henri IV et Louis XIII*, 2nd edn., Paris 1971. As against Mousnier, I do not see the effect of venality on recruitment as that decisive. The structures of selection were not fundamentally different from those in England and other societies of the ancien-régime type. Cf. also Ernst Hinrichs, 'Justice Versus Administration', in Ernst Hinrichs, Eberhard Schmitt and Rudolf Vierhaus (eds.), *Vom Ancien Régime zur bürgerlichen Revolution*, Göttingen 1978, pp. 125–50, esp. 149 ff. For the remark about Louis XVI, *Correspondance secrète du comte de Mercy-Argenteau avec l'empereur Joseph II et le prince de Kaunitz*, A.D. Arneth and J. Flammermont (eds.), Volume 1, Paris 1889, p. 330. The original runs as follows: 'd'ailleurs ce qui paraît une absurdité à dire, et qui cependant n'est qu'une trop grande vérité, c'est que le Roi a lui-même peu de crédit dans ses propres affaires d'État, parce que il n'y apporte aucune volonté, trop peu de connaissances...'

Chapter Four *The French Revolution as Event and Structural Change* (p. 517)*The Revolution as event*

Since I do not give any detailed description of the course of the Revolution, readers will have to seek information elsewhere if needed. Recent English-language general histories include J.F. Boshier, *The French Revolution*, London 1989; P.M. Jones, *The Peasantry in the French Revolution*, Cambridge 1988. Schama's book is certainly full of anecdotal material, and entertaining to read, but this wealth of material cannot disguise the fact that he has no analysis of his own to offer, simply confining himself to jibes against the 'social interpretation': Simon Schama, *Citizens. A Chronicle of the French Revolution*, London 1989.

*Digression: The French Revolution as object of dispute between historical schools* (p. 517)*For an introduction to these debates*

Eberhard Schmitt (ed.), *Die Französische Revolution*, Darmstadt 1973; idem (ed.), *Die Französische Revolution*, Cologne 1976. Each of these volumes contains extracts from works that were especially important in the early phase of criticism of the 'social interpretation'. Instead of a large number of further references, cf. Ferenc Fehér, *The Frozen Revolution: An Essay in Jacobinism*, Cambridge 1987, pp. 1–10.

*For the 'social interpretation'*

Georges Lefebvre, *Les Paysans du Nord pendant la Révolution française*, 2 vols., Paris/Lille 1923, abbreviated edition Bari 1959; idem, *The Great Fear of 1789. Rural Panic in Revolutionary France*, London 1973 [1932]; idem, *The French Revolution*, 2 vols., London 1962–4 [1951]; Albert Soboul, *Les Sans-Culottes parisiens en l'an II*, Paris 1958; idem, 'La Révolution française dans l'histoire du monde contemporain', in Eberhard Schmitt (ed.), *Die Französische Revolution*, Darmstadt 1973, and *Précs de l'histoire de la Révolution française*, Paris 1962. idem, *La Révolution française*, Paris 1965; Irmgard A. Hartig (ed.), *Geburt der bürgerlichen Gesellschaft*, Frankfurt 1979; Claude Mazauric, *Sur la Révolution française*, Paris 1970 (a critique of the revisionists).

*The start of the revisionist critique*

Alfred Cobban, *The Myth of the French Revolution*, London 1955; idem, *The Social Interpretation of the French Revolution*, Cambridge 1964; George V. Taylor, 'Noncapitalist

Wealth and the Origins of the French Revolution', in *American History Review*, 72, 1967: 469–96.

*The renaissance of political history*

François Furet and Denis Richet, *French Revolution*, London 1970; François Furet, *Penser la Révolution française*, Paris 1978; idem, 'Histoire universitaire de la Révolution', in F. Furet and Mona Ozouf (eds.), *Dictionnaire critique de la Révolution Française*, Paris 1988, pp. 979–97.

*Research into the 'preconditions'*

Henri Doniol, *La Révolution française et la féodalité*, Geneva 1978 [1876].

*Research into mentalities*

Fernand Braudel, 'Histoires et sciences sociales: la longue durée', in *Revista internacional de sociologica*, 18, 1960: 197–239; idem, *The Mediterranean and the Mediterranean World in the Age of Philip II* (2 vols.), London 1975 [1949/1966]; idem, *Civilization and Capitalism 15th–18th Century*, London 1980 & seq. For a critique, cf. Heide Gerstenberger, 'Vom Lauf der Zeit. Eine Kritik an Fernand Braudel', in *Prokla*, 67, 17th year, 1987: 119–34; Michel Vovelle, *Mourir autrefois*, Paris 1974; idem, *La mentalité Révolutionnaire*, Paris 1985; idem, 'Un Siècle d'historiographie révolutionnaire 1880–1987', in M. Vovelle (ed.), *L'État de la France pendant la Révolution 1789–1799*, Paris 1988, pp. 543–7; Rolf Reichardt, 'Von der politisch-ideengeschichtlichen zur sozio-kulturellen Deutung der Französischen Revolution. Deutschsprachiges Schrifttum 1946–1988', in *Geschichte und Gesellschaft*, 15th year, 1989: 115–43; idem, 'Bevölkerung und Gesellschaft Frankreichs im 18. Jahrhundert: Neue Wege und Ergebnisse der sozialhistorischen Forschung 1950–1976', in *Historische Forschung*, 4, 1977: 154–221; idem and Eberhard Schmitt, 'Umbruch oder Kontinuität', in *Zeitschrift für Historische Forschung*, 7, 1980: 237–320; Reinhart Koselleck and Rolf Reichardt (eds.) (general editors Erich Pelzer and Michael Wagner), *Die Französische Revolution als Bruch des gesellschaftlichen Bewußtseins*, Munich 1988; Lynn Hunt, *Politics and Class in the French Revolution*, 1984.

*Long-term changes*

Guy Chaussinand-Nogaret, *Une Histoire des élites 1700–1848*, Paris 1976; Louis Bergeron, 'Die französische Gesellschaft von 1750–1820', in *Zeitschrift für Historische Forschung*, 1977: 131–46; René Sédillot, *Le Coût de la Révolution Française*, Paris 1987; Michel Brugère, *Gestionnaires et profiteurs de la Révolution*, Paris 1986.

*The debate within Marxism on categories for analysing the Revolution*

Régine Robin, *La Société française en 1789: Semur-en-Auxois*, Paris 1970 (cf. also idem 1973); Ludolf Kuchenbuch and Bernd Michael (eds.), *Feudalismus – Materialien zur Theorie und Geschichte*, Frankfurt 1977 (includes Régine Robin, '"Fief" und "Seigneurie" im Recht und in der juristischen Ideologie am Ende des 18. Jahrhunderts' [1971]) as well as Claude Mazauric, 'Zum Gebrauch von "régime féodal" und "féodalité" während der französischen Revolution' [1971]). For a typical attempt to save this category by indicating the analytical weaknesses of its critics (such as for example the confusion of commercialisation and capitalisation), Hannes Krieser, *Die Abschaffung des 'Feudalismus' in der Französischen Revolution*, Frankfurt 1984. For a critical view, Gregor McLellan, *Marxism and the Methodology of History*, London 1981 (Chapter 9 on Soboul); Hal Draper, *Karl Marx's Theory of Revolution*, 2 vols., New York 1977; George C. Comminel, *Rethinking the French Revolution*, London/New York 1987.

a. *The rise of a revolutionary public* (p. 522)

Cf. the references under Chapter Three, b.1 ('Good Order'). Also Gilles Feyel, 'La Presse provinciale au XVIIIe siècle: géographie d'un réseau', in *Revue Historique*, 272, 1984: 353–74. For the idea that the spread of Enlightenment attitudes was responsible for the Revolution, cf. as one example among many, Heinz Köller and Bernhard Töpfer, *Frankreich*, Berlin (East) 1978, pp. 347–58. Also Albert Soboul, 'Transition du féoda-

lisme au capitalisme – contribution à propos de la Révolution française', *La Pensée* 65, 1956: 26–32.

*The assembly of notables and the reform of local government*

For an interpretation of the assembly of notables as the start of the Revolution, Albert Mathiez, *La Révolution française*, Paris 1922; Jean Egret, *La Pré-Révolution française, 1787–1788*, Paris 1962; Pierre Chevalier (ed.), *Journal de l'Assemblée de Notables de 1787 par le comte de Brienne et Étienne Charles de Loménie de Brienne*, Paris 1960. The developments that led to the convocation of the Estates General (in particular the attempt to summon provincial assemblies, to replace the *parlement de Paris* by a *cour plénière*, and to involve 'public opinion' in these processes) can be read in a chronological presentation by Roland Mousnier, *La Plume, la faucille, et le marteau*, Paris 1970, esp. pp. 252 ff. on 'Les hésitations du XVIII<sup>e</sup> siècle'. Also J.F. Bosher 1989, pp. 98–107; Rolf Reichardt, 'Die revolutionäre Wirkung der Reform der Provinzialverwaltung in Frankreich 1787–1791', in Ernst Hinrichs, Eberhart Schmitt and Rudolf Bierhaus (eds.), *Vom Ancien Régime zur Französischen Revolution*, Göttingen 1978, pp. 66–123 (which comprehensively lists further relevant literature); P.M. Jones, *The Peasantry in the French Revolution*, Cambridge 1988, Chapter 3.

*Preparation for the Estates General*

Michel Naudin, 'Les Assemblées préliminaires des corps, collèges et communautés de Moulins pour les États Généraux de 1789 (2–5 mars 1789)', in *Annales Historiques de la Révolution Française*, 55th year: 600–19; Ran Halévi, 'États Généraux', in F. Furet and M. Ozouf (eds.) 1988, pp. 76–83.

*The public of the electoral assemblies in Paris*

Émile Ducoudray, 'La Bourgeoisie parisienne et la Révolution: remarques méthodologiques pour de nouvelles recherches', in *Annales Historiques de la Révolution Française*, 58th year, 1986: 7–21; Marcel Reinhard, *Nouvelle Histoire de Paris. La Révolution, 1789–1799*, Paris 1971.

*In the countryside*

For an assessment of research, P.M. Jones 1988, Chapter 3 (I cite here after Jones the data from S.R. Weitman, *Bureaucracy, Democracy and the French Revolution*, unpublished Ph.D. thesis, Washington University 1968); F. Furet 1980; idem, 'Les États Généraux de 1789. Deux baillages élisent leurs députés', in *Structures et conjonctures. Hommage à Ernest Labrousse*, Paris 1974, pp. 433 ff.; George V. Taylor, 'Les Cahiers de 1789. Aspects révolutionnaires et non révolutionnaires' [1972], in *Annales E.S.C.*, 28, 2, 1973: pp. 1495 ff. For a critical perspective, Claude Mazauric, 'Sur le sens et la fonction de la politique dans la Révolution', in *Voies nouvelles pour l'histoire de la Révolution Française. Colloques A. Mathiez–Georges Lefebvre*, Paris 1978, pp. 321–50. The following work is opposed to Taylor's view of the contents of the *cahiers*: Pierre Goubert and Michel Denis (eds.), *1789. Les Français ont la parole. Cahiers des États Généraux*, Paris 1964. Cf. also Jean-Maire Constant, 'Les Idées politiques paysannes. Étude comparée des cahiers des doléances, 1576–1789', in *Annales E.S.C.*, 37, 2, 1982: 717–28; Béatrice Hyslop, *Répertoire critique des cahiers de doléances pour les États Généraux de 1789*, Paris 1952 [1932]; Jean Vidalenc, *Les Revendications économiques et sociales de la population parisienne en 1789, d'après les Cahiers de Doléances*, Paris 1949. In connection with the public involved in the *cahiers*, still important is Emmanuel Sièyes, *Qu'est-ce que le tiers état?* [1789] (foreword by Jean Tulard), Paris 1982. See also Guy Chaussinand-Nogaret, *La Noblesse au XVIII<sup>e</sup> siècle*, Paris 1976, pp. 204–26; Régine Robin, *Histoire et linguistique*, Paris 1973. (In this early attempt by a historian to make use of the methods of linguistic structural analysis for historical research, Robin explains the possibilities of such application in terms of a change in the contents of discourse at the end of the *ancien régime*. For my part, I am increasingly sceptical of such procedures, seeing historians as continuing to find in the discourses they analyse exactly what they expected to find.)

*Examples of representative 'cahiers'*

N.-E. Rétif de la Bretonne, *Le Plus fort des Pamphlets, l'Ordre de Paysans aux États-Généraux*, 1789; *Cahiers du Quatrième Ordre, celui des pauvres Journaliers, des Infirmes, des Indigens, e.c., L'Ordre Sacré des Infortunés, du Correspondance Philanthropique entre les Infortunés, les Hommes sensibles, et les États-Généraux: Pour suppléer du droit de députer directement aux États, qui appartient à tout François, mais dont cet ordre ne jouit pas encore, par M. Duforuny de Villiers*, Paris 1967 [1789].

*The revolutionary public of summer and autumn 1789*

F. Furet and D. Richet 1970 (on the essentially peaceful character of a bourgeois revolution). For the participation of the population: Jean Michaud, *Les États Généraux et le 14 juillet 1789*, Paris 1960; Mirabeau's letter of 5–7 August 1789 is printed in Walter Markow, *Revolution in Zeugenstand. Frankreich 1789–1799*, Leipzig 1982, pp. 94–7. Dr. Rigby's *Letters from France, &c., in 1789*, London 1880. On situations in which speeches become political events, John Grenville Angus Pocock, *Politics, Language and Time*, London 1972 [1960], esp. p. 280.

*The development of the press*

Jack Censer, 'Die Presse des Ancien Régime im Übergang – eine Skizze', in R. Koselleck and R. Reichardt (eds.) 1988, pp. 127–52; Pierre Rétat, 'Die Zeitungen des Jahres 1789: einige zusammenfassende Perspektiven', *ibid.*, pp. 143–66; see also Rolf Reichardt's notes (appended to these two contributions) on the press revolution of 1789 (*ibid.*, p. 165). As early as June, the English traveller Arthur Young was surprised by the fact that the government allowed such an uproar in the press. Business in the Paris 'pamphlet-shops' was indescribable. The previous day 16 new pamphlets had appeared (diary for 9 June 1789, today a further 13, and the week before 92). The price of printing, which two years ago had been 27 to 30 *livres* per sheet, had now risen to 60 or 70. The craze for reading had also spread to the provinces. Cited from James M. Thompson (ed.), *English Witnesses of the Revolution*, Port Washington 1938, p. 35; Favio Freddi, 'La Presse parisienne et la nuit du 4 août', in *Annales Historiques de la Révolution Française*, 57th year, 1985: 46–58.

*The constitution of revolutionary peasant publics*

Georges Lefebvre, *La Grande Peur*, Paris 1938 – an extract is reprinted in I.A. Hartig (ed.) 1979; Jean Boutier, 'Jacqueries en pays croquant. Les révoltes paysannes en Aquitaine (décembre 1789 – mars 1790)', in *Annales E.S.C.*, 343, 1979: 760–86; Yves-Marie Bercé, *Croquants et Nu-Pieds. Les soulèvements paysannes en France du XVIe au XIXe siècle*, Paris 1974; P.M. Jones 1988, Chapter 3; Jacques Revel, 'La Grande Peur', in F. Furet and M. Ozouf (eds.) 1988, pp. 105–11.

*Peaceful character of the Revolution and the army*

Above all, Samuel F. Scott, *The Response of the Royal Army to the French Revolution*, Oxford 1978. Also J. Michaud 1960; Jean-Paul Bertaux, 'Voies nouvelles pour l'histoire militaire de la Révolution', in *Voies nouvelles* 1978, here esp. pp. 43 ff.; *idem*, *La Révolution armée. Les soldats-citoyen et la Révolution française*, Paris 1979, pp. 43 ff.; Denis Richet, 'Journées révolutionnaires', in F. Furet and M. Ozouf 1988, pp. 113–25.

b. *The struggle for a new order* (p. 536)*Concepts of the public sphere*

Jürgen Habermas, *The Structural Transformation of the Public Sphere. An Inquiry into a Category of Bourgeois Society*, Cambridge, MA 1989 [1962]. (My discussion in this section frequently bears on Habermas's thesis of a bourgeois public that was first of all emancipatory and experienced a structural change only later. Habermas's research is almost exclusively oriented to the literary public, which cannot appear as socially non-exclusive, since its very form contains social exclusion.) On Jefferson's concept of the public sphere, cf. Heide Gerstenberger, *Zur politischen Ökonomie der bürgerlichen Gesellschaft. Die historischen Bedingungen ihrer Konstitution in den USA*, Frankfurt/New



York 1973, Chapter 9. The sources for the notion of a generational revision can be found in *Papers of Thomas Jefferson*, ed. E. Boyd et al., Princeton 1950 et seq.: Volume 13, p. 113; Volume 14, p. 676, also in *Works of Thomas Jefferson*, ed. Paul Leicester Ford, New York/London 1904 et seq., Volume 11, p. 298. Also Harvey Mitchel, 'Counter-revolutionary Mentality and Popular Revolution', in J.F. Bosher (ed.), *French Government and Society 1500–1850*, London 1973.

*Examples of conflicts not discussed:*

*The assignats*

All the literature cited under Section b.

*Internal warfare, especially the uprising in the Vendée*

F. Furet, 'Chouannerie', in F. Furet and M. Ozouf (eds.) 1988, pp. 33–40; Paul Bois, *Paysans de l'Ouest. Des structures économiques et sociales aux options politiques depuis l'époque révolutionnaire dans la Sarthe* [1960], abbreviated edition Paris 1971; Donald M. G. Sutherland, *The Chouans. The Social Origins of Popular Counter-Revolution in Upper Brittany, 1770–1796*, Oxford 1982; Jacques Godechot, *La Contre-Révolution, doctrine et action 1789–1904*, Paris 1961.

*De-Christianisation*

See under Section c.

*Festivals as the staging of currently dominant interpretations of the public sphere*

Mona Ozouf, *La Fête révolutionnaire. 1789–1799*, Paris 1976 has become the classic work. See also Jean Ehrard and Paul Viallaneix (eds.), *Les Fêtes de la Révolution. Colloque de Clermont-Ferrand (juin 1974)*, Paris 1977 (cf. especially here the contribution by Michel Vovelle, pp. 457–78, in which he criticises the description of the Revolution in general as a festival); Lynn Hunt, *Politics and Class in the French Revolution*, 1984.

*Attempts to control the revolutionary public 1789–91*

R.B. Rose, *The Making of the Sans-Culottes*, Manchester 1983; M. Reinhard 1971; Maximilien Robespierre, *Ausgewählte Texte*, Hamburg 1971. On the 'feast of the Federation', M. Reinhard 1971; M. Ozouf 1976. An enthusiastic report of this festival in Strasbourg can be found in Christian Friedrich Daniel Schubart's works: *Schubarts Werke in einem Band*, ed. Nationale Forschungs- und Gedenkstätten der klassischen deutschen Literatur in Weimar, Weimar 1959, pp. 182 ff.

*The development of revolutionary publics in the countryside*

G. Lefebvre 1959; P.M. Jones 1988; P. Bois 1971; F. Furet, in F. Furet and M. Ozouf (eds.) 1977; Y.-M. Bercé 1974.

*The participation of women*

Dominique Godineau, 'Travail et politique à Paris pendant la Révolution: l'exemple des Ateliers Municipaux', in *Annales Historiques de la Révolution Française*, 58th year, 1987: 1–16; Susanne Petersen, *Marktwießer und Amazonen* (2nd edn.), Cologne 1989; Jean-Paul Bertaud, *La Vie quotidienne en France au temps de la Révolution 1789–1795*, Paris 1983.

*The developed revolutionary public in general*

J.-P. Bertaud 1983 (a very fine compilation of contemporary accounts); M. Vovelle, *Breve storia della rivoluzione francese*, Rome 1979; Robert Brécy, 'La Chanson révolutionnaire de 1789 à 1799', in *Annales Historiques de la Révolution Française*, 55th year, 1983: 8–24; Georges Duby (ed.), *Histoire de la France urbaine*, Volume 3, Emmanuel Le Roy Ladurie (ed.), Paris 1981, chapter 'La Ville jacobine et balzaçienne'; special issue *Les Sociétés populaires* of *Annales Historiques de la Révolution Française*, 5th year, no. 266, 1986, esp. Jean Boutier and Philippe Boutry, 'La Diffusion des sociétés politiques en France 1789 – An III. Une enquête nationale', pp. 365–98; C. Peyard, 'La Géopolitique

jacobine à l'épreuve de l'Ouest', pp. 448–76 (on the connection between urban and rural Jacobinism); R. Koselleck and R. Reichardt (eds.) 1988 (almost all contributions to this volume illuminate one or other aspect of the questions at issue here).

*The development of sans-culottes movements, their social composition and their political practice*

The fundamental work on their political practice is Albert Soboul, *The Parisian Sans-Culottes and the French Revolution, 1793–4*, Oxford 1964 [1958]. (Though Soboul insists in his general analyses that the French Revolution was a struggle between classes, it is pertinent that he does not treat the *sans-culottes* as a class.) R.B. Rose 1983 does not completely agree with Soboul on the social composition of the *sans-culottes*, holding that many of them described themselves as manual workers even though they were not. On the relationship between vanguard and mass in the *sans-culottes* movement, cf. F. Furet, C. Mazauric and L. Bergeron, 'The Sans-Culottes and the French Revolution', in Jeffry Kaplow (ed.), *New Perspectives on the French Revolution*, New York 1965, pp. 226–54. The existence of a developed public in the wake of the *sans-culottes* movement is also discussed by Richard Cobb, 'Some Aspects of the Revolutionary Mentality, April 1793 – Thermidor Year II', in Jeffry Kaplow (ed.) 1965, pp. 305 ff. Cobb sees the development of this public as particularly conditioned by war. He does not discuss conflicts, but ascribes the 'ambiance of collectivity' a natural tendency to promote 'orthodoxy'. On distinctions and contradictions within the popular movement of Year II, cf. C. Mazauric, 'Einige neue Wege für eine politische Geschichte der Französischen Revolution' (reprinted in *Voies nouvelles*, 1978). William H. Sewell, Jr, *Work and Revolution in France*, Cambridge 1980, Chapter 4 is particularly important in that the author shows how up till now research on the *sans-culottes* has erroneously excluded their work situation, and false assumptions about this were therefore adduced as explanations for the contents of their demands. Also Michael Sonenscher, 'Les Sans-Culottes de l'An II: repenser le langage du travail dans la France révolutionnaire', in *Annales E.S.C.*, 1985: 1087–1108; idem, *Work and Wages*, Chapter 10; Michel Vovelle, 'Die Sansculotten von Marseille', in R. Koselleck and R. Reichardt (eds.) 1988, pp. 95–116.

*Valmy*

Jean-Paul Bertaud, *Valmy. La démocratie en armes*, Paris 1970; Simon Schama, *Citizens. A Chronicle of the French Revolution*, London 1989, pp. 539–44 (discusses Goethe's famous depiction). On nationalism in Year II, Maurice Agulhon, *Marianne au combat*, Paris 1979.

*The construction of a new world*

J.-P. Bertaud 1983, Chapter 8; Michael Meinzer, 'Der französische Revolutionskalender und die "Neue Zeit"', in R. Koselleck and R. Reichardt (eds.) 1988, pp. 23–60; L. Hunt 1984; Jean Starobinski, 1789. *Die Embleme der Vernunft*, Munich n.d.; Mona Ozouf, 'Le Simulacre et la fête révolutionnaire', in J. Ehrhard and P. Viallaneix (eds.) 1977, pp. 322–54. I have not discussed education programmes, since they initially seem generally to have remained mere programmes, but here are some further indications on this point. Under the Directory, according to a study by Claude Désirat and Tristan Hordé, the attempt was made to 'construct' political elites in a specific fashion, so that they were schooled in grammar: cf. Claude Désirat and Tristan Hordé, 'La Fabrique aux élites. Théories et pratiques de la grammaire générale dans les écoles centrales', in *Annales Historiques de la Révolution Française*, 53rd year, 1981: 61–86; cf. Also P. Chevallier, B. Grosperin and J. Maillets, *D'enseignements français de la Révolution à nos jours*, Paris/The Hague 1968. On the compulsory standardisation of language as well as weights and measures, the so-called 'terreur linguistique', R. Balibar and D. Laporte, *Le Français national*, Paris 1974.

*The ruling practice of the dictatorship*

F. Fehér 1987 (discusses in particular the development of the necessity of forcible measures in the situation of war economy, the alternative being Robespierre's proposal of a progressive income tax, p. 43).

*Revolutionary terror in the countryside*

Richard Cobb, *Terror in the Departments. April 1793 to Floréal Year II*, New Haven/London 1987 [1955]; Raymond Monnier, 'La Dissolution des sociétés populaires parisiennes au printemps de l'an II', in *Annales Historiques de la Révolution Française*, 59th year, 1987: 93–113; Daniel Arasse, *Die Guillotine. Die Macht der Maschine und das Schauspiel der Gerechtigkeit*, Reinbek bei Hamburg 1988 [1987]; J.-P. Bertaud 1983; Roland Mousnier, *Les Hiérarchies sociales de 1450 à nos jours*, Paris 1969, Chapter 10, section 1. (After formalising and in this way de-historicising the concept of estate, Mousnier manages to class the Italian fascists, German Nazis and the CPSU as estate organisations along with the Jacobins, under the rubric of 'philosophical' estate societies, and depict the advance of their members into previously unattainable social positions and the conquest of privileges bound up with these as a process corresponding to the securing of privileges in the Middle Ages. Even so, some of Mousnier's specific discussions are acceptable.) Without such problematic concepts, but in the same vein of interpretation, is P. Bessand-Massenet, *De Robespierre à Bonaparte*, Paris 1970. Further references are given by C. Mazauric, in E. Schmitt (ed.) 1976, pp. 89–123. On the control of the *sans-culottes*, Haim Burstin, 'Les Citoyens des quarante sous', in *Annales Historiques de la Révolution Française*, 55th year, 1983: 93–113.

*Thermidor**On the destruction of the sans-culottes movement*

Kåre D. Tønneson, *La Défaite des sans-culottes*, Oslo 1978 [1959].

*On the 'jeunesse dorée'*

François Gendron, *La Jeunesse dorée*, Quebec 1979. This subject is dealt with in most histories of the Revolution, cf. for example Norman Hampson, *A Social History of the French Revolution*, London 1963, pp. 229 ff., also on the disarming of the *sans-culottes*; M. Vovelle 1982, pp. 43, 118. *On the suppression of the uprisings of Germinal and Prairial Year III*: Richard Cobb and Georges Rudé, 'The Last Popular Movement of the Revolution in Paris. The "Journées" of Germinal and Prairial of Year III', in J. Kaplow (ed.) 1965, pp. 255–337 (also discusses the exclusion of soldiers from the political public as precondition for this suppression); Richard Cobb, *The Police and the People*, Oxford 1970, Part 2; K. Tønneson 1978, p. xi & passim. *On the White Terror*, Marcel Pollitzer, *Sous la terreur blanche*, Paris 1967; R. Cobb 1970. *On the struggle against symbols and heroes*, L. Hunt 1984; Michel Abensour, 'Saint Just. Die Paradoxe des revolutionären Heroismus', in *lettre*, 5 1989; Frank Paul Bowman, 'Le "Sacré-Coeur" de Marat', in J. Ehrhard and P. Villaneix (eds.) 1977, pp. 155–7; M. Vovelle 1982.

*The Directory*

Martyn Lyons, *France under the Directory*, Cambridge 1975; Clive H. Church, 'In Search of the Directory', in J.F. Bosher (ed.) 1973, pp. 261–94; J.R. Surrateau, 'Le Directoire. Points de vue et interprétations d'après des travaux récents', in *Annales Historiques de la Révolution Française*, 48th year, 1976: 181–214; Denis Woronoff, *La République bourgeoise de Thermidor à Brumaire 1794–1799*, Paris 1972; P. Bessand-Massenet 1970.

*Strategies towards the public sphere under the Consulate and Empire*

Claude Langlois, 'Le Plébiscite de l'an VIII ou le coup d'état du 18 pluviôse an VIII', in *Annales Historiques de la Révolution Française*, 44th year, 1972: 43–65, 231–46, 390–415; Louis Bergeron, *L'Épisode napoléonienne, aspects intérieurs. 1799–1815*, Paris 1972 (especially on the change in the structure of the military). On personalisation, C.O. Zieseniss, *Napoléon et la cour impériale*, Paris 1980. On Napoleon's charisma, cf. John Sutherland, *Men of Waterloo*, Englewood Cliffs 1966. This also contains a good analysis of the significance of the return from Elba. The reference to Napoleon's description of the common people as a 'mob' is based on the conclusions of Louis Bergeron and Guy Chaussinand-Nogaret, *Les Masses de granit*, Paris 1979, and on the quotation that they particularly cite by way of illustration: 'Le véritable peuple de France, ce sont les présidents de canton et les présidents des collèges électoraux..., c'est l'armée... et non

vingt ou trente mille poissard ou gens de cette espèce...’ (Napoleon on his coronation), p. 63.

*On nationalism in general*

Benedict Anderson, *Imagined Communities*, London 1983. Also Jacques Godechot, ‘Nation, patrie, nationalisme et patriotisme en France au XVIIIe siècle’, in *Annales Historiques de la Révolution Française*, 43rd year, 1971: 482–501; idem, *La Grande Nation*, 2 vols., Paris 1966.

c. *The revolutionising of ancien régime forms of rule into bourgeois state power* (p. 562)

R. Sédillot 1987; Michel Brugière, *Gestionnaires et profiteurs de la Révolution; l’administration des finances françaises de Louis XVI à Bonaparte*, Paris 1986; M. Vovelle 1982; R. Reichardt, ‘Revolutionäre Mentalitäten und Netze politischer Grundbegriffe in Frankesch 1789–1795’, in R. Koselleck and R. Reichardt (eds.) 1988. The fact that the dominant discourse on the French Revolution is also the result of publishing strategies is made very clear by the change in the title that Lynn Hunt’s book underwent in German translation, from *Politics and Class in the French Revolution* to *Symbole der Macht. Macht der Symbole* 1989.

c.1. *Destruction of personal rule* (p. 564)

*On Louis XVI’s attitude towards the Revolution*

J.F. Bosher 1989, Chapter 7; Andrew Freeman, *The Compromising of Louis XVI. The Armoire de Fer and the French Revolution*, Exeter 1989; Michel Vovelle, *La Chute de la monarchie. 1781–1792*, Paris 1972; Evelyne Lever, *Ludwig XVI.*, Stuttgart 1988 [1985].

*The significance of the abolition of estates for careers*

Alfred Cobban, *The Myth of the French Revolution*, London 1955; L. Bergeron and G. Chaussinand-Nogaret 1979; Christophe Charle, *Les Hauts fonctionnaires en France au XIXe siècle*, Paris 1980.

*Education*

Cf. Denis Woronoff, *La République bourgeoise de Thermidor à Brumaire 1794–1799*, Paris 1972 (esp. pp. 158 ff.); H.C. Barnard, *Education and the French Revolution*, Cambridge 1969. On the renewed importance of the church in the educational system, J. Izarn, *Exposé de l’état actuel de l’instruction publique en France*, Paris 1815; P. Chevalier, B. Grosperin and J. Maillet 1968.

c.2. *Opening up of centralised power of office: the structural transformation of institutions of public power* (p. 568)

*The state bureaucracy* (p. 570)

J.F. Bosher, *French Finance 1770–1795. From Business to Bureaucracy*, Cambridge 1970, esp. pp. 230 ff.; idem 1989 (also here on the ideas of making administration into a mechanical system); N. Hampson 1963, pp. 77 ff. and 209 ff.; M. Lyons 1975, pp. 159 ff.; D. Woronoff 1972, pp. 51 ff.; L. Bergeron 1972, pp. 32–64; Clive H. Church, ‘The Social Basis of the French Central Bureaucracy Under the Directory 1795–1799’, in *Past and Present*, 36, 1967 (esp. p. 72 on the introduction of a Weberian-type bureaucracy); Charles Durand, *Quelques aspects de l’administration préfectorale sous le Consulat et l’Empire*, Aix-en-Provence 1962 (*Extrait des Annales de la Faculté de Droit d’Aix-en-Provence* 52); C. Charle 1980; Bailey Stone, *The French Parlements and the Crisis of the Old Regime*, Chapel Hill/London 1986.

*Nationalisation of the financial administration (p. 572)*

J.F. Bosher 1989, pp. 259–66; M. Brugière 1986. Particularly on the *assignats*, F. Fehér 1987, pp. 34–48; Guy Lemarchand, 'Assignats', in M. Vovelle (ed.) 1988, pp. 293–5.

*Nationalisation of armed force (p. 573)*

Samuel F. Scott, *The Response of the Royal Army to the French Revolution*, Oxford 1978; Jean-Paul Bertrand, 'Une Source d'informations sur l'armée de la Révolution: les papiers d'administration des demi-brigades', in *Revue Internationale d'Histoire Militaire*, 30–2, 1970: 160–79; idem, *La Révolution armée. Les soldats-citoyen et la Révolution Française*, Paris 1979; idem, 'Voies nouvelles pour l'histoire militaire de la Révolution', in *Voies nouvelles pour l'histoire de la Révolution Française (Colloque Albert Mathiez–Georges Lefebvre)*, Paris 1978, pp. 185–205; L. Bergeron 1972, pp. 114 ff. (on desertions under Napoleon).

*c.3. Destruction of the ancien-régime church (p. 575)**Changes in the church and belief before the Revolution*

Michel Vovelle, *Mourir autrefois*, Paris 1974; Michel de Certeau, 'Du système religieux à l'éthique des lumières', in *Ricerche di Storia Sociale e Religiosa*, 2, 1972: 31–94. On the pedagogising of church provision for the poor, cf. Yves Poutet, 'L'Enseignement des pauvres dans la France du XVIIe siècle', in *Dix-Septième Siècle*, 1971: 87–110.

*Developments in the revolutionary years*

Cf. the survey by L.-J. Rogier, G. de Berthier de Sauvigny and Joseph Hajjar, *Nouvelle histoire de l'église*, Volume 4, Paris n.d., Chapter 6; John McManners, *The French Revolution and the Church*, London 1969. On church tithes and their abolition, Henri Marion, *La Dîme ecclésiastique en France au XVIIIe siècle et sa suppression*, Geneva 1974 [1912]; Paul Christophe, *Les Choix du clergé dans les Révolutions de 1789, 1830 et 1848*, Volume 1, Lille 1975 (a highly recommended presentation); Timothy Tackett, 'Die Stadtteilen und der Priestereid von 1791', in R. Koselleck and R. Reichardt (eds.) 1988, pp. 579–602. My own presentation follows on many points Bernard Plongeron, 'Voies nouvelles pour l'histoire religieuse de la Révolution', in *Voies nouvelles pour l'histoire de la Révolution Française, Colloque Albert Mathiez–Georges Lefebvre*, Paris 1978, pp. 206–64; cf. also idem, *Conscience religieuse en Révolution*, Paris 1969, esp. Chapter 2 on de-Christianisation and the need to develop a new theology in the conditions of emigration, pp. 226 ff. On the concordat, Edmond de Pressence, *L'Église et la Révolution française*, Geneva 1978 [1864]; Michel Vovelle, *Religion et Révolution. La déchristianisation de l'an II*, Paris 1976; see also idem 1982 for a brief summary of his research conclusions; René Pillorget, 'The Cultural Programmes of the 1789 Revolution', in *History*, Volume 70, 1985: 386–96; Dominique Julia, 'La Révolution, l'Église et la France', in *Annales E.S.C.*, 43rd year, 1988: 761–70; Eva Schleich, 'Kirche, Klerus und Religion', in Rolf Reichardt (ed.), *Die Französische Revolution*, Freiburg/Würzburg 1988, pp. 172–85.

*Developments after the Revolution**On the changed structures of recruitment*

L. Bergeron 1972, pp. 216 ff. That the notables included no more than 2 per cent clergy, L. Bergeron and G. Chaussinand-Nogaret 1979, p. 37. For copious references to further literature, Michel Lagrée, 'Religion populaire et populisme religieux au XIXe siècle', in J. Delumeau (ed.), *Histoire vécue du peuple chrétien*, Toulouse 1979, Volume 2, pp. 157–78. The general lines of development are depicted in A. Latreille and R. Rémond, *Histoire du catholicisme en France*, Volume 3, Paris 1962; John McManners, *Church and State in France 1870–1914*, London 1972 (in fact this work also covers a long previous period); Yves-Marie Hilaire, 'Notes sur la religion populaire au XIXe siècle', in *La Religion populaire*, Paris 1979, pp. 193–8; idem, *Une chrétienté au XIXe siècle? La vie religieuse des populations du diocèse d'Arras*, 2 vols., Lille 1977; R. Rémond, *La Déchristianisation*

au XIXe siècle, *Colloque d'Histoire religieuse*, Lyon, October 1963, pp. 123–54. For a well-worked out theoretical approach, Joseph W. Moody, 'The Dechristianization of the French Working Class', in *Review of Politics*, 20, 1958: 46–69; August Comte, *A Discourse on the Positive Spirit*, London 1903 [1844].

c.4. *Dissolution of the ancien régime of appropriation* (p. 579)

*Generally on economic development in the nineteenth century*

Patrick Fridenson and André Straus (eds.), *Le Capitalisme français. XIXe–XXe siècle*, Paris 1987 (especially the contribution by Jean Bouvier, 'Libres propos autour d'une démarche révisionniste', pp. 11–27); Heinz-Gerhard Haupt, *Sozialgeschichte Frankreichs seit 1789*, Frankfurt 1989, Part 1 (summary of recent research); Maurice Lévy-Leboyer, 'Croissance économique en France au XIXe siècle', in *Annales E.S.C.*, 1968: 788–807; Guy P. Palmade, *Capitalisme et capitalistes françaises au XIXe siècle*, Paris 1961; Georges C. Comninel, *Rethinking the French Revolution*, London/New York 1987; Gilbert Ziebura and Heinz-Gerhard Haupt (eds.), *Wirtschaft und Gesellschaft in Frankreich seit 1789*, Cologne 1975; Ronald Hubscher, 'La Petite Exploitation en France; reproduction et compétitivité (fin XIXe siècle – début XXe siècle)', in *Annales E.S.C.*, 1985: 3–34.

*Dissolution of office property*

J.S. Boshier 1989, Chapter 11; William H. Sewell, Jr, *Work and Revolution in France. The Language of Labour from the Old Regime to 1848*, Cambridge 1980 (does not deal specifically with the dissolution of office property, rather the 'revolution in property' by the abolition of privileges, Chapter 6).

*Abolition of guild privileges*

Michael Sonenscher, *Work and Wages. Natural Law, Politics and the Eighteenth-Century French Trades*, Cambridge 1989; W.H. Sewell, Jr 1980; William M. Reddy, 'Entschlüssen von Lohnforderungen; Der Tarif und der Lebenszyklus in den Leinenfabriken von Armentières 1889–1904', in Berdahl et al., *Klassen und Kultur. Sozialanthropologische Perspektiven in der Geschichtsschreibung*, Frankfurt 1982, pp. 77–107; Agricol Perdiguer, *dite Avignonnais La Vertu, Le Livre du compagnonage*, Paris 1840 [1839]; idem, *Appel aux compagnons*, Paris 1873; Georges Bourgin and Hubert Bourgin, *Le Régime de l'industrie en France de 1814 à 1830*, 3 vols., Paris 1912–41 – on brawls, Volume 1, 1912. On the reintroduction of legal regulations in a new form, Peter Schöttler, *Die Entstehung des 'Bourses du Travail'*, Frankfurt 1982.

*The abolition of seigneurie and the non-abolition of peasant collective rights*

Philip Sagnac, *La Législation civile de la Révolution Française*, Geneva 1979 [1898]. Especially, P.M. Jones 1988 (also on the relevant literature); H.G. Haupt 1989, Chapter 4; R. Sédillot 1987, p. 81 (on the development of agriculture after the Revolution, pp. 151–74. On the stability of social structures in remote areas, Elisabeth Clavier and Pierre Lamaison, *L'Impossible mariage. Violence et parenté en Gévaudan*, Paris 1982 (an extremely fascinating study, which shows how new institutional forms were adapted to traditional patterns of behaviour); G. van den Heuvel 1982, Chapters 8 & 9.

*On the abolition of slavery* (not dealt with in the text), cf. the article by Yves Benoit and Robert Forster in M. Vovelle (ed.) 1988.

d. *Emperor, king and notables: the French constitution of the bourgeois state* (p. 585)

*The forms of personal rule*

For court ceremonial under Napoleon, Charles-Otto Ziesenis, *Napoléon et la Cour Impériale*, Paris 1980; William Crawford, 'Mr. Crawfords dispatches to Washington', letters 38–41, National Archive, Washington, DC, cited after J. Sutherland 1966, p. 35. On Louis XVIII's healing of scrofula, Marc Bloch, *The Royal Touch*, London 1973 [1923];

Georges Lefebvre, *Napoléon*, London 1969 [1936]; William Fortescue, *Revolution and Counter-Revolution in France 1815–1852*, Oxford 1988, Chapter 1.

*Continuing importance of the administration*

J.F. Bosher 1989, p. 291; Alexandre Wickham and Sophie Coignard, *La Nomenclatura française. Pouvoirs et privilèges des élites*, Paris 1986.

*The thesis of a unity of notables, and criticism of it*

Louis Bergeron, 'Die französische Gesellschaft von 1750 bis 1820', in *Zeitschrift für Historische Forschung*, 4, 1977: 131–46; idem 1972 (especially on the newly created nobility and the material consolidation of the old); Rolf Reichardt, 'Bevölkerung und Gesellschaft Frankreichs: Neue Wege und Ergebnisse der sozialhistorischen Forschung 1950–1976', in *Zeitschrift für Historische Forschung*, 4, 1977: 154–221 (for all significant literature up to 1976); Jean Vidalenc, *La Société française de 1815 à 1848*, Paris 1970; Thomas D. Beck, *French Legislators, 1800–1834*, Berkeley 1974 (a quantitative study). My own interpretation largely follows H.-G. Haupt 1989, Part 2; idem, *Nationalismus und Demokratie. Zur Geschichte der Bourgeoisie im Frankreich der Restauration*, Frankfurt 1974. Also Ralph Gibson, 'The French Nobility in the Nineteenth Century – Particularly in the Dordogne', in Jolyon Howorth and Philip G. Cerny (eds.), *Elites in France*, London 1981 (pp. 5–45); E.A. Whitcomb 1974; C. Charle 1980; François de Negroni, *La France noble*, Paris 1974.

*Control of the 'dangerous classes'*

For contemporary discussion (the concept first emerged in the 1830s), H.A. Fregier, *Ueber die gefährlichen Classen in der Bevölkerung in den großen Städten und die Mittel, sie zu bessern. Von der Akademie der moralischen und politischen Wissenschaften gekrönte Preisschrift, aus dem Franz.*, Volume 1, Coblenz 1840. Also Louis Chevalier, *Classes laborieuses et classes dangereuses à Paris pendant la première moitié du XIXe siècle*, Paris 1958. On policing (not specifically addressed in the text, but further developed in France than in other states at this time), Ernest d'Hauterive, *La Police secrète du Premier Empire, bulletins quotidiens adressés par Fouché à l'Empereur*, 2 vols., Paris 1963 (also contains observations on workers' struggles, labour associations, wage disputes etc.) Against exaggeration of police control, Jean Tulard, 'Le Mythe de Fouché', in Jacques Aubert et al. (eds.), *L'Etat et sa police en France 1789–1914*, Geneva 1979, pp. 27–34; for later developments, Howard C. Payne, *The Police State of Napoleon Bonaparte 1851–1860*, Seattle 1866.

*On the livret*

G. Bourgin and H. Bourgin, Volume 1, 1912; Jean-Paul de Gaudemar, *La Mobilisation générale*, Paris 1979. The *livret* as an instrument of repression after 1852: E. Dolléans and G. Dehove, *Histoire du travail en France*, Montchretien 1953, Volume 1, pp. 157 ff.; see also in particular the findings of a commission of investigation, 'Commission des Conseils de Prud'Hommes et des Livrets d'Ouvrier', Paris 1869 (Archives Nationales, AD XIX D 174); M.D. Sibalis, *The Workers of Napoleonic Paris, 1800–1815*, dissertation, Paris 1979, Chapter 6; idem, 'Un Sans-Culotte parisien en l'an II. François Léon, frère de Pauline Léon', in *Annales de l'Histoire de la Révolution Française*, 54th year, 1982: 94–8.

## **Part Four Results of the Historical Comparison (p. 589)**

Please refer to the detailed bibliography to Parts Two and Three. In this section I only indicate works that are either directly cited in the main text, or in which comparisons are similarly made.

1) *The conditions of personal rule in England and France* (p. 592)

*Structural differences between 'manor' and 'seigneurie banale'*

Marc Bloch, *Feudal Society*, 2 vols., London 1961/1962. Frederick Pollock and Frederic William Maitland, *The History of English Law before the Time of Edward I*, 2nd edn., Cambridge 1898, Volume 1, esp. pp. 66–235. On legal processes as well as the differences in general, cf. H.G. Richardson and G.O. Sayles, *The Governance of Mediaeval England from the Conquest to Magna Carta*, Edinburgh 1963; *The Cambridge Economic History of Europe*, M.M. Postan (ed.), Volume 1, Cambridge 1971 [1942], Chapter 7.

*The relation between secular and religious power* (p. 594)

Walter Ullmann, *Principles of Government and Politics in the Middle Ages*, London 1966 [1961]. (This work remains stimulating even if it has subsequently been criticised, convincingly so in many respects.) Cf. Francis Oakley, 'Celestial Hierarchies Revisited: Walter Ullmann's Vision of Medieval Politics', in *Past and Present*, 60, 1973: 3–48; Peter Shervey Lewis, *Essays in Later Medieval French History*, London/Roncheverte 1985, Chapter 16.

*Preconditions for the constitution of the nobility as an estate* (p. 595)

Michael John Sayer, *English Nobility. The Gentry, the Heralds and the Continental Context*, ed. Heraldry Society, Fakenham 1979; Philippe Contamine (ed.), *La Noblesse au Moyen Age, XIe–XVe siècles*, Paris 1976, esp. Introduction; M.L. Bush, *Noble Privilege*, Manchester 1983; idem, *The English Aristocracy. A Comparative Synthesis*, Manchester 1984, Part 1; Georges Duby, *France in the Middle Ages 987–1460*, Oxford 1991; idem, *The Three Orders: Feudal Society Imagined*, Chicago/London 1980.

*Autonomy of the towns and their strivings for power* (p. 599)

Cf. Part Two: 2.a.3 and Part Three: 3.a.

2) *Conditions for the emergence of the ancien régime* (p. 600)

My arguments are directed for example against Perry Anderson's view that the development described here can be explained as a 'historical causality that was at work in dissolving the original unity of extra-economic exploitation at the base of the whole social system, by the spread of commodity production and exchange, and recentralizing it at the summit' (*Lineages of the Absolutist State*, London 1974, p. 47). I hold equally problematic the explanation that refers to the dynamic of the market; cf. Karl Polanyi, *The Great Transformation*, Boston 2000 [1944]. (Polanyi was certainly one of the most forceful critics of a purely formal and dehistoricised economic context, but in my view himself fell back into a retrospective approach to development-determining factors by failing to distinguish between 'market structures' that developed in the framework of the *ancien régime*, and those that developed only after the historical separation of politics and economics.) On Polanyi's critical position, cf. 'Karl Polanyi, Anthropology and Economic Theory', in *Readings in Anthropology*, Volume 2, New York 1968, Chapter 14. The same considerations apply to Stefan Breuer's contribution in Weberian mode, 'Politik und Recht im Prozeß der Rationalisierungen', in *Leviathan*, 1, 1977: 53–100.

*Estate assemblies*

For a depiction in terms of institutional history, Werner Näf, 'Frühformen des modernen Staates im Spätmittelalter', in Hanns Hubert Hofmann (ed.), *Die Entstehung des modernen souveränen Staates*, Cologne/Berlin 1967, pp. 101–14; A.R. Myers, 'The Parliaments of Europe and the Age of the Estates', in *History*, 60, 1975: 11–27; especially P.S. Lewis 1985, Chapter 8; Helen M. Cam, Antonia Marongiu and Günther Stökl, 'Recent Work and Present Views on the Origins and Developments of Representative Assemblies', in *Relazioni del Congresso Internazionale di Scienze Storiche*, Florence 1955, Volume 1, pp. 1 ff.



*The development of war*

Philippe Contamine, *La Guerre au Moyen Age*, Paris 1980; John Gillingham and J.C. Holt (eds.), *War and Government in the Middle Ages*, Cambridge 1984; 'War and Society 1300–1600', conference report and conference papers, in *Past and Present*, 22, 1962: 3–35; John U. Nef, *War and Human Progress. An Essay on the Rise of Industrial Civilization*, New York 1950; Michael Howard, *War in European History*, Oxford 1976, chs 1–4.

3) *Contradictory development of the ancien régime* (p. 604)*Extent and structure of centralised appropriation* (p. 606)

Norman Ravitch, *Sword and Mitre. Government and Episcopate in France and England in the Age of Aristocracy*, Paris 1966. G.E. Aylmer, 'From Office-Holding to Civil Service: the Genesis of Modern Bureaucracy', in *Transactions of the Royal Historical Society*, 30, 1980: 91–108, is systematic and fundamental. Not very thorough: V.G. Kiernan, *State and Society in Europe 1550–1650*, Oxford 1980, Chapter 1. In a much discussed work on the crisis of the seventeenth century (in parts conclusively criticised), Trevor-Roper emphasises the appropriation structure of the 'state': Hugh R. Trevor-Roper, 'The General Crisis of the Seventeenth Century', in Trevor Ashton (ed.), *Crisis in Europe 1560–1660*, London 1965, Chapter 3. Cf. also here Miroslav Hroch and Josef Petrán, *Das 17. Jahrhundert. Krise der feudalen Gesellschaft*, Hamburg 1981 [1976], Chapter 3; Karl Marx, *Capital* Volume One, Harmondsworth 1976 [1867], p. 915.

*Structural change in the rule of the high nobility* (p. 610)

J.V. Beckett, *The Aristocracy in England 1660–1914*, Oxford 1986, esp. Chapter 1; Lawrence Stone and Jeanne C. Fawtier Stone, *An Open Elite? England 1540–1880*, Oxford 1984, esp. conclusion. M.L. Bush, *Noble Privilege*, Manchester 1983; Jean-Pierre Labatut, *Les Noblesses européennes de la fin du XVe siècle à la fin du XVIIIe siècle*, Paris 1969; Roland Mousnier, *Les Hiérarchies sociales de 1450 à nos jours*, Paris 1964 (with dehistoricised categories); Bailey Stone, *The French Parlements and the Crisis of the Old Regime*, Chapel Hill/London 1986.

*Estate hierarchy and distribution of wealth* (p. 614)

G. Chaussinand-Nogaret, *La Noblesse du XVIIIe siècle*, Paris 1976.

*General comparisons*

Hans Patze (ed.), *Aspekte des europäischen Absolutismus*, Hildesheim 1979; Reinhold Koser, 'Die Epochen der absoluten Monarchie in der neueren Geschichte', in Walther Hubatsch (ed.), *Absolutismus*, Darmstadt 1973, pp. 1–44 (remains very much in thrall to traditional notions of absolutism). For comparative analysis of personal rule. Olwen H. Hufton, *Europe: Privilege and Protest 1730–1789*, Ithaca 1980, Parts 1 and 2.

4) *From ancien régime to bourgeois state power: reasons for the 'special roads'* (p. 617)*Emancipation of a political public from the structures of personal rule* (p. 619)

The structural significance of 'publics' for the emergence of modern state power is also emphasised by Reinhard Bendix, *Nation-Building and Citizenship*, New York 1964, 'Programmatic Summary', esp. pp. 18–22. In his comparative study, however, Bendix refrains from distinguishing structurally between a public of power and a public established as the subject of 'public opinion'. He confines his analysis of 'nation-building' principally to formal aspects, and of 'the public' to establishing its existence. I also refer in the text to Jürgen Habermas, *The Structural Transformation of the Public Sphere. An inquiry into a category of bourgeois society*, Cambridge, MA 1989 [1980]; Reinhart Koselleck, *Kritik und Krise*, Munich 1969 [1959].

*Institutional history*

Kurt Kluxen, *Geschichte und Problematik des Parlamentarismus*, Frankfurt 1983. On de facto power competences and the institutionalised forms of personal rule, see Parts Two and Three. On participation of the ruling estates in the establishment of capitalist forms of production and circulation, see Part Two, 4.b and Part Three, 3.b.

*Residues* (p. 626)

The position of Arno Mayer goes much further than my own: Arno J. Mayer, *The Persistence of the Old Regime. Europe to the Great War*, London 1981. Mayer attributes the First World War to the persistence of the 'old regime' in almost all the European states. The 'forces of the old order' were still strong and powerful. This expands the theses of the German 'special road' to Europe as a whole, blaming the political crisis not on 'industrial capitalist' and 'bourgeois' structural features, but on the survivals of the old society. Though I quite agree with Mayer's assertion that the 'modernity' of European societies on the eve of the First World War has often been overemphasised, his work suffers in my view from the lack of an analysis of the material basis of the 'old forces'. Noble titles do not prove that their bearers were not capitalists or functionaries of principally bourgeoisified forms of political power. I also refer in the text to Martin J. Wiener, *English Culture and the Decline of the Industrial Spirit, 1850–1980*, Cambridge 1982 [1980]; François de Negroni, *La France noble*, Paris 1974. For a critique of such positions, cf. E.P. Thompson, 'The Peculiarities of the English', in Ralph Miliband and John Saville (eds.), *Socialist Register*, London 1965, pp. 311–62.

## **Part Five The Organisation of Generalised Power: A Conceptual Framework for Historical Epochs (p. 629)**

1) *Feudalism* (p. 632)*Questioning of the concept*

Frederic William Maitland, *The Constitutional History of England*, Cambridge 1920. Maitland criticises Henry Spelman, an archivist of the seventeenth century. Though Spelman did indeed depict a system founded on law, he did not himself use the concept of feudalism. This does not affect Maitland's generally pertinent criticism. For the error in relation to Spelman, see John Grenville Angus Pocock, *The Ancient Constitution and the Feudal Law, English Historical Thought in the Seventeenth Century*, New York 1967 [1957], passim. Cf. also Frederick Pollock and Frederic William Maitland, *The History of English Law before the Time of Edward I*, 2nd edn., Cambridge 1898, Volume 1, esp. p. 66; Marc Bloch, *Feudal Society*, 2 vols., London 1961/1962. A forceful attack on the concept (which concludes however that analysis of a functional context should be abandoned altogether) is formulated by Elizabeth A.R. Brown, 'The Tyranny of a Construct: Feudalism and Historians of Medieval Europe', in *American Historical Review*, 79, 1974: 1063–88. Especially stimulating is Alan Guerreau, *Le Féodalisme. Un horizon théorique*, Paris 1980. A selection of the countless versions of the concept of feudalism is supplied for example by Otto Brunner, "'Feudalismus". Ein Beitrag zur Begriffsgeschichte', in idem, *Neue Wege der Verfassungs- und Sozialgeschichte*, Göttingen 1968 [1954], pp. 128–58. Also Heide Wunder (eds.), *Feudalismus*, Munich 1974 (includes in particular contributions from the discussion in the GDR); Ludolf Kuchenbuch and Bernd Michael (eds.), *Feudalismus. Materialien zur Theorie und Geschichte*, Frankfurt 1977; A. Guerreau 1980 (especially also on the historiography of the nineteenth century).

*Examples of interpretation in terms of institutional history*

François-L. Ganshof, *Le Moyen Age*, 4th edn., Paris 1968; Otto Hinze, *Feudalismus und Kapitalismus*, ed. G. Oestreich, Göttingen 1970, pp. 84–119; Heinrich Mitteis, *Die Rechtsidee in der Geschichte*, Weimar 1957, pp. 649 ff.; Rushton Colbourn (ed.), *Feudalism in History*, Princeton 1956 (especially the editor's own contribution). One of the most

well-founded works in this orientation is undoubtedly Jean-Pierre Poly and Eric Bour-nazel, *La Mutation féodale, Xe–XIIe siècles*, Paris 1980.

*A critique of the institutional history interpretation*

Fritz Kern, 'Recht und Verfassung im Mittelalter', *Historische Zeitschrift*, 120, 1919: 1–79.

*Examples of the 'modes of production' research tradition*

Cf. the literature cited for Part One, 3. For the elaboration of new approaches, cf. A. Guerreau 1980; L. Kuchenbuch and B. Michael 1977. Leonhard Bauer and Herbert Matis, *Geburt der Neuzeit*, Munich 1988, is untroubled by theoretical questions.

*Typical examples of the depiction of seigneurie and enfeoffment as two systems developing separately from one another*

Roubert Boutruche, *Seigneurie et féodalité*, 2 vols., Paris 1968–70; Guy Fourquin, *Seigneurie et féodalité au Moyen Age*, Paris 1970.

*The importance of war under feudalism*

Georges Duby, *The Early Growth of the European Economy. Warriors and Peasants from the Seventh to the Twelfth Century*, London 1974 [1973], esp. pp. 146–7, 163–4; idem, *History of Medieval Art*, London 1986. Aaron J. Gurjewitsch, *Das Weltbild des mittelalterlichen Menschen*, Munich 1980 [1972], passim; R. Boutruche 1968–70, passim; Maurice Keen, *Chivalry*, New Haven/London 1984; Michael Howard, *War in European History*, Oxford 1976. Philippe Contamine, *La Guerre au Moyen Age*, Paris 1980. Still relevant is Hans Delbrück, *Geschichte der Kriegskunst*, here in particular Volume 3, 3rd edn., Berlin 1964 [1900 et seq.]; Vito Fumagalli, *Wenn der Himmel sich verdunkelt*, Berlin 1988 [1987], pp. 77–88 (also on the common socialisation of knights and bishops); Christopher Duffy, *Siege Warfare. The Fortress in the Early Modern World. 1494–1660*, London/Henley 1979.

*The development of the notion of individuality and the legal subject*

Alan Macfarlane, *The Origins of English Individualism*, Oxford 1978 (a stimulating work, though Macfarlane places the origin and structurally relevant spread of the notion of individuality too far back – even for England); Georges Duby, *France in the Middle Ages 987–1460*, Oxford 1991 [1987].

*The significance of symbolic power*

I will cite only by way of example Percy Ernst Schramm, *Geschichte des englischen Königtum im Lichte der Krönung*, Darmstadt 1970 [1937]; G. Duby 1991, Chapter 1 (cf. on this subject, however, all Duby's other works). Pierre Bourdieu particularly developed a theory of symbolic power. He metaphorically applies an analysis of capital (equating this with property) to the sphere of symbolic forms, thus analysing them as components of a market – and not only in capitalist societies, but explicitly also for historically earlier ones. Among the many other problems of this analysis, there is the peculiarity that the transformation of 'economic' into symbolic forms of power is studied with the instrumentarium of market analysis, although the conditions of material reproduction were not yet structured by any kind of market. Feudalism for Bourdieu is a feudally veiled class society, and the application of symbolic forms of power is seen as a strategy resulting from calculations of cost (as explicitly stated in Bourdieu 1979, p. 359), resort being made to such strategy 'if direct and brutal exploitation is not possible' (p. 370). According to Bourdieu, this applies in particular to the 'pre-capitalist economy', since in this system, power relations can be established, maintained and reconstructed only at the price of strategies explicitly oriented to the establishment of relations of personal dependence, which at the cost of *having to openly expose their truth*, have to change their form to a *euphemistic* one (p. 369; my emphasis). The following works of Bourdieu are particularly relevant in the present connection: 'Genèse et structure du champ religieux', in *Revue Française de Sociologie*, 12, 1971: 295–334; idem

(with Jean-Claude Passeron), *Éléments pour une théorie d'enseignement*, Paris 1970; idem, *Outline of a Theory of Practice*, Cambridge 1977 [1972]; idem, 'Les Rites d'institution', in *Actes de la Recherche en Sciences Sociales*, 43, 1982: 58–63. For a critique of Bourdieu, cf. Collectif 'Révoltes Logiques', *L'Empire du sociologue*, Paris 1984 (especially here the contribution of F. Kerleoux, A.L. Cot and B. Lautier, also that of P. Cingolani).

*Structural significance of religious practice*

Maurice Godelier, *Perspectives in Marxist Anthropology*, Cambridge 1977, esp. pp. 169–85; A.J. Gurjewitch 1980, esp. pp. 247–327. A strikingly different approach is taken by P. Bourdieu 1971.

*The medieval church*

For the territorialisation of the church, cf. Georges Duby, *The Early Growth of the European Economy. Warriors and Peasants from the Seventh to the Twelfth Century*, London 1974 [1973]. On the separate church system of the nobility (the example of Bavaria and in general): Wilhelm Störmer, *Früher Adel*, Stuttgart 1971, Volume 1, pp. 357–73; on the church as instance of integration: Karl Bosl, *Die Gesellschaft in der Geschichte des Mittelalters*, Göttingen 1975, Chapter 1. On the development of church rule, Fritz Bleienstein, *Johannes Quiderot von Paris*, Frankfurt 1968 [1962], pp. 20 ff.; Paul Wilpert (ed.), *Universalismus und Partikularismus*, Berlin 1968 (especially the contribution by G. Wolf); Karl August Fink, *Papsttum und Kirche im abendländischen Mittelalter*, Munich 1981; Jacques Le Goff, *Medieval Civilization 400–1500*, Oxford 1988 [1962] pp. 308 ff; Georges Duby, *The Age of the Cathedrals*, London 1981 [1976]; Richard William Southern, *Western Society and the Church in the Middle Ages*, Harmondsworth 1970. Particularly on the relationship between secular and religious power: Josef Fleckenstein (ed.), *Investiturstreit und Reichsverfassung*, Sigmarinen 1973; Helmut Kämpf (ed.), *Canossa als Wende*, Darmstadt 1963. On differing developments in the relationship between 'temporal' and 'spiritual' power, Walter Ullmann, *Principles of Government and Politics in the Middle Ages*, London 1966 [1961]; idem, *The Individual and Society in the Middle Ages*, Baltimore 1966. A remarkable critique of Ullmann's positions is offered by Francis Oakley, 'Celestial Hierarchies Revisited: Walter Ullmann's Vision of Medieval Politics', in *Past and Present*, 60, 1973: 3–48. On the (structurally important!) unity of religious and rational argument in the realm of Western church rule: Kurt Flasch, *Einführung in die Philosophie des Mittelalters*, Darmstadt 1987, esp. Chapters 1 & 2.

*The Crusade movement*

Carl Erdmann, *Die Entstehung des Kreuzzugsgedankens*, Darmstadt 1980 [1935]; James A. Brundage, *Medieval Canon Law and the Crusader*, Madison 1969. On heresy as a form of social criticism, a fine popularisation of this connection is offered by Umberto Eco, *The Name of the Rose*, London 1983 [1980]. See also Alexander Patschovsky, 'Was sind Ketzer? Über den geschichtlichen Ort der Häresien im Mittelalter', in Max Kerner (ed.), '... Eine finstere und fast unglaubliche Geschichte?' *Mediävistische Notizen zu Umberto Ecos Mönchsroman 'Der Name der Rose'*, Darmstadt 1976, pp. 169–90. For a brief introduction to the state of research into development of Christian dogma, Martin Werner, *Die Entstehung des christlichen Dogmas*, Stuttgart 1959. On the adaptation to a warrior society, A.J. Gurjewitsch 1980, pp. 247–326; M. Keen, *Chivalry* 1984, Chapter 3.

*The crisis-prone structure of landlordship*

A summary of research findings, especially for Germany, but limited only to description, is given by Werner Rösener, *Bauern im Mittelalter*, Munich 1985. A very thorough analysis, also structural in its argument (and thus relevant beyond the geographical limits of the study) is Dominique Barthélemy, *Les Deux âges de la seigneurie banale. Pouvoir et société dans la terre des sires de Coucy (milieu XIe–milieu XIIIe siècle)*, Paris 1984. This work bases its critique on the idea that *seigneurie banale* reached its apogee in the twelfth century and from then on was on the decline. Pierre Bonnassie, *La Catalogne. Du milieu du Xe à la fin du XIe siècle*, 2 vols., Toulouse 1976, esp. Chapter 10. The

following works have been especially influential: Guy Bois, *The Crisis of Feudalism*, London 1978 [1976]; cf. also a more recent work of Bois in which the limitations of 'economic' analysis are more clearly overcome: idem, 'Noblesse et crise des revenus seigneuriaux en France aux XIVe et XVe siècles: essai d'interprétation', in P. Contamine (ed.) 1976, Chapter 10; Witold Kula, *Théorie économique du système féodal. Pour un modèle de l'économie polonaise 16e–18e siècles*, Paris/The Hague 1970. Rodney Hilton published an analytical treatment of commercialisation in connection with the analysis of feudalism, in the context of the so-called 'transition debate' (following on the works of Dobb and Sweezy): 'Capitalism – What's in a Name?', in R. Hilton (ed.), *The Transition from Feudalism to Capitalism*, London 1976, pp. 145–58.

On the development of poverty as a new social stratum, separate from the manual workers who are described en bloc as 'poor' in the high Middle Ages: Michel Mollat, *Die Armen im Mittelalter*, Frankfurt 1978 [1976], pp. 195–214.

#### *Aristocracy, knights, nobles*

A very good summary of the state of research is given in the editorial introduction to Philippe Contamine (ed.), *La Noblesse au Moyen Age XIe–XVe siècles*, Paris 1976 (see this volume as a whole also for the question of the relationship between freedom and nobility, which I do not deal with here); Timothy Reuter (ed.), *The Medieval Nobility*, Oxford 1979; Jan Dhont, *Das frühe Mittelalter*, Frankfurt 1968, pp. 231–4; G. Duby 1977; Lutz Fenske, 'Probleme der gegenwärtigen Adelsforschung', in *Mittelalterforschung*, Volume 29, 1981: 93–103; J.-P. Poly and E. Bournazel 1980. Generally on social advance, K. Bosl 1975, Chapters 3 & 4; Josef Felckenstein (ed.), *Herrschaft und Stand*, Göttingen 1977. Studies of specific regions include P. Bonnassie 1976, Chapter 15; Michel Parisse, *Noblesse et chevalerie en Lorraine médiévale*, Nancy 1982 (discusses the question of the relationship between nobility and freedom for France as a whole). On the rise of the knights, Arno Bost (ed.), *Das Rittertum im Mittelalter*, Darmstadt 1976; M. Keen 1987; Johanna Maria van Winter, *Rittertum*, Munich 1979 [1965]; J. Flori, 'Du nouveau sur l'adoubement des chevaliers (XIe–XIIIe siècles)', in *Le Moyen Age*, 91, 1985: 201–26; G. Duby 1991; idem 1986; idem, *Hommes et structures au Moyen Age*, Paris 1973; idem 1977. On the rise of 'civil' offices, general assertions are especially difficult and I refrain from these in the text. Whereas in Germany for instance, *Ministerialen* largely succeeded in rising into the lower nobility, elsewhere such offices only offered this possibility in particular cases; cf. as example George Duby, *La Société au XIe et XIIe siècles dans la région mâconnaise*, Paris 1982 [1977], pp. 335–7.

#### *The corporate rise of the burghers*

Fundamental for structural analysis of this is Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, New York 1968 [1922], Chapter 9, Section 7. Following Weber, and referring also to recent research findings, Philip Abrams stresses that 'the town' as such did not display a developmental tendency, but should rather be analysed as a *locus* of conflicts: Philip Abrams and E.A. Wrigley (eds.), *Towns in Societies*, Cambridge 1980 [1978], Introduction. As well as the discussion in the so-called Dobb-Sweezy debate, cf. on this the different positions reprinted in R. Hilton (ed.) 1978; also Lewis Mumford, *The City in History*, Harmondsworth 1961. On specific urban developments, George Duby (ed.), *Histoire de la France urbaine*, Volume 2: André Chédeville, Jacques Le Goff and Jacques Rossiaud, *La Ville médiévale*, Paris 1980 (cf. pp. 244 ff. on differing developments and the 'symbiosis between town and feudalism'). For England see in particular Susan Reynolds, *An Introduction to the History of English Medieval Towns*, Oxford 1977; F.R.H. Du Boulay, *An Age of Ambition. English Society in the Late Middle Ages*, London 1970. A good example for Germany (because relevant also to structural analysis) is Theodor Mayer, *Mittelalterliche Studien*, Sigmarinen 1959 (pp. 147–264 on the question of urban foundations, and pp. 265–72 on the beginnings of Lübeck).

## 2) Ancien régime (p. 645)

*Use of the term to define an epoch*

Alexis de Tocqueville, *The Ancien Régime and the French Revolution*, London 1966 [1856]. An excellent presentation of the history of the concept along with his own development of its content is offered by William Doyle, *The Ancien Régime*, Houndmills 1986. Following Tocqueville, Furet seeks to relativise the structural significance of the Revolution as event: François Furet, *Penser la Révolution française*, Paris 1978. One of the most contentious recent publications using a general concept of the *ancien régime* is Arno J. Mayer, *The Persistence of the Ancien Régime. Europe to the Great War*, New York 1981.

*Refoundation of personal rule (p. 647)**Relationship to other concepts of epochs*

J. Huizinga, *Herbst des Mittelalters*, Stuttgart 1953 [1923]; Werner Näf, 'Frühformen des "modernen Staates" im Spätmittelalter', in Hanns Hubert Hofmann (ed.), *Die Entstehung des modernen souveränen Staates*, Cologne/Berlin 1967, pp. 101–14; Reinhart Koselleck, '"Neuzeit"'. Zur Semantik moderner Bewegungsbegriffe', in idem, *Vergangene Zukunft*, Frankfurt 1977, pp. 300–48.

*Examples of interpretations assuming a specific dynamic on the part of the state*

W. Näf 1967; Heinrich Mitteis, *Staat des hohen Mittelalters*, Weimar 1968 [1940]; Theodor Schieder (ed.), *Handbuch der Europäischen Geschichte*, Volume 3: Josef Engel (ed.), *Die Entstehung des neuzeitlichen Europa*, Stuttgart 1971 (especially J. Engel, 'Von der spätmittelalterlichen *respublica christiana* zum Mächte-Europa der Neuzeit'); V.G. Kiernan, *State and Society in Europe 1550–1650*, Oxford 1980. (This work is very often cited, but especially unsatisfactory from a theoretical point of view. Kiernan assumes for example that early-modern states used unrest 'like all dictatorial regimes' for internal stabilisation, p. 14. Elsewhere he explains that monarchies had surplus energies because they did not undertake any constructive, i.e. modernising, tasks. These energies were thus applied to war, p. 12.) René Fédou, *L'État au Moyen Age*, Paris 1971. (Fédou sees national states as arising in the thirteenth and fourteenth centuries. It is certainly true that at this time the core territories of the royal realms stabilised to a certain extent, thus providing one (!) of the preconditions for the later nation-states, but Fédou does not deal with the structural change between the 'state of the Middle Ages' and the modern nation-states.) Richard van Dülmen, 'Formierung der europäischen Gesellschaft in der frühen Neuzeit. Ein Versuch', in *Geschichte und Gesellschaft*, 7, 1981: 5–41. (Dülmen's line of argument is contradictory. Though he maintains the intention of analysing the separation of politics, economics and culture as a social process (n. 8), he also argues as if this process had been already completed in the sixteenth century.)

*The notion of estate representation*

A.R. Myers, 'The Parliaments of Europe and the Age of the Estates', in *History*, 60, 1975: 11–27. Examples of the traditional interpretation of 'absolutism' are Walther Hubatsch (ed.), *Absolutismus*, Darmstadt 1973; Hans Patze (ed.), *Aspekte des europäischen Absolutismus*, Hildesheim 1979; Max Beloff, *The Age of Absolutism, 1660–1815*, New York 1962. A brief summary of the critique of the notion of absolutism (and the literature especially relevant to this) is offered by Reinhard Blanker, 'Westlicher und Östlicher "Absolutismus" auf dem Kontinent – "Parlamentarismus" in England, oder: Elend der Kategorien', in *Sozialwissenschaftliche Informationen für Unterricht und Studium*, 4, 1983, pp. 218–26. An example of an empirical study is William Beik, *Absolutism and Society in Seventeenth-Century France*, Cambridge 1985.

*On privileges*

Olwen H. Hufton, *Europe: Privilege and Protest. 1730–1789*, Ithaca 1980, Part 2. A fundamental comparative investigation of noble privileges is M.L. Bush, *Noble Privilege*, Manchester 1983; also Jean-Pierre Labatut, *Les Noblesses européennes de la fin du XVe siècle à la fin du XVIIIe siècle*, Paris 1978; Klaus Malettke (ed.), *Ämterkauflichkeit: Aspekte sozialer Mobilität im europäischen Vergleich 17. und 18. Jahrhundert*, Berlin 1980.

*Market and power (p. 649)**Monetarisation*

In the 1300s, writes Duby, 'warfare was a wage-based operation': G. Duby 1991, p. 271; Pierre Vilar, *Or et monnaie dans l'histoire. 1450–1920*, Paris 1974, Chapters 4–23. The earlier debate, following on the work of Heckscher, has in the meantime concluded. A brief summary of this discussion is offered by Ernst Hinrich, 'Merkantilismus in Europa', in *Sozialwissenschaftliche Informationen für Unterricht und Studium*, 4, 1983: 209–17. On the relative importance of costs for court and war, see the contributions in Trevor Aston (ed.), *Crisis in Europe 1560–1660. Essays from 'Past and Present'*, London 1965. As one of very many examples equating the development of trade and manufacture with that of capitalism, cf. *Histoire économique et sociale de la France*, Volume 2, 2 (Pierre Léon and Charles Carrière), Paris 1970.

*The polarisation of living conditions*

O.H. Hufton 1980; Pierre Goubert, *L'Ancien Régime*, Volume 1, Paris 1962.

*The development of representation of rule*

J. Engel (ed.) 1971, Introduction; O.H. Hufton 1980; Joyce G. Russel, *The Field of Cloth of Gold*, London 1969.

*Private participation in centralised appropriation (p. 651)**Examples of the analysis of conditions of material reproduction*

Perry Anderson, *Lineages of the Absolutist State*, London 1974; Lawrence Stone, *The Crisis of the Aristocracy. 1558–1640*, Oxford 1965; Herbert Gintis and Samuel Bowles, 'State and Class in European Feudalism', in Charles Bright and Susan Harding (eds.), *State-making and Social Movements*, Ann Arbor 1984, pp. 19–51.

*Social totality (p. 653)*

On territorialisation, J. Engels (ed.) 1971, Introduction. On war, John U. Nef, *War and Human Progress*, New York 1950. On the earlier significance of woodland: Georges Duby, *France in the Middle Ages 987–1460*, Oxford 1991 [1987], pp. 53–4; Vito Fumagalli, *Wenn der Himmel sich verdunkelt*, Berlin 1988 [1987], pp. 25–39.

*The transition from rule to government*

I refer here to an advance printing of the cassette edition of Foucault's lectures 1990, in *taz Buchmesse* 1989, pp. 37–9. A draft of the underlying problematic can be read in Michel Foucault, *Power* (ed. J.D. Faubion), New York 2000.

*The privatisation of the family*

Arlette Frage and Michel Foucault, *Le Désordre des familles. Lettres de cachet des Archives de la Bastille au XVIIIe siècle*, Paris 1982; M. Foucault, *History of Sexuality. Volume 1, An Introduction*, London 1979; Volkmar Sigusch, 'Geburt und Tod unserer Sexualität als Gefühls- und Begriff', in *Lettre*, 4, 1989. The reference to Kentler I take from Sigusch.

*Enlightenment as a phenomenon of the ancien régime*

W. Doyle 1986.

*Privileges and interests*

*The de facto right of resistance of the nobles*

Otto Brunner, 'Vom Gottesgnadentum zum monarchischen Prinzip', in H.H. Hofmann (ed.) 1967, pp. 115–36.

*The development of the notion of interests*

I developed the argument that the constitution of interests involves a process of abstraction in discussions with Franz Dröge. This argument already makes clear that I see the category of interests as unhelpful analytically if it is supposed to express simply a reaction to material situations. This kind of approach is characteristic of economic interpretations of history. My own analytical conception is also influenced by more recent analytical discourse. See for example Gareth Stedman Jones, *Languages of Class*, Cambridge 1983. On the historical origin of the notion, Albert O. Hirschman, *Leidenschaft und Interessen. Politische Begründungen des Kapitalismus vor seinem Sieg* 1977, Frankfurt 1980; Hartmut Neuendorff, *Der Begriff des Interesses*, Frankfurt 1973.

*The notion of a secular history*

Reinhart Koselleck, *Vergangene Zukunft* [1979], Frankfurt 1984, pp. 300–48; Karl Löwith, *Weltgeschichte und Heilsgeschehen*, Stuttgart 1953. (Löwith criticises the idea that genuinely historical thinking began only in the eighteenth century, developing against this the thesis that it involved a secularisation of conceptions deriving from the biblical belief in redemption.) For a critique of this interpretation that is convincing to my mind, cf. Walter Schulz, *Philosophie in der veränderten Welt*, Pfullingen 1972, pp. 469–91, esp. 480–1.

3) *Bourgeois State* (p. 662)

N.B. The works cited here are almost exclusively ones not already given, as well as publications that have appeared since the first edition of this book.

*Bourgeois revolution as analytical category* (p. 662)

*The 'classical conception' of bourgeois revolution as an analytical concept, and its reformulation by Marxist authors*

Cf. the recent survey by Benno Teschke, 'Bourgeois Revolution, State-Formation and the Absence of the International', in *Historical Materialism* 13.2, 2005: 3–26, esp. pp. 4–6.

*Interpretations assuming a gradual transition*

These interpretations underlie the mainstream of research into the history of modern state power; examples include Charles Tilly, *Coercion, Capital and European States AD 990–1992*, Malden MA/Oxford 1992; Wolfgang Reinhard, *Geschichte der Staatsgewalt. Eine vergleichende Verfassungsgeschichte Europas von den Anfängen bis zur Gegenwart*, Munich 1999, esp. Chapter 5. This theoretical approach is developed particularly clearly in Wolfgang Reinhard, 'Das Wachstum der Staatsgewalt', in *Der Staat*, 1992: 59–75; the author maintains the correlated growth of 'states' and 'capitalists' from the sixteenth century, p. 72. Michael Mann, *The Sources of State Power. Vol. 2: The Rise of Classes and Nation-States, 1760–1914*, Cambridge 1993, passim. Mann sees two major 'watersheds' in the development of the state (p. 479), though he keeps supplementing this: the autonomy of the military, bureaucratisation, increasing involvement of the state in the lives of citizens.



*Structural preconditions for bourgeois revolution (p. 663)**The significance of territorial boundaries*

Malcolm Anderson, *Frontiers, Territory and State Formation in the Modern World*, Cambridge 1966, esp. Chapter 2. A discussion of different interpretations, especially regarding the relevance of boundaries for the constitution of the nation, is given by John Breuilly, 'Sovereignty and Boundaries: Modern State Formation and National Identity in Germany', in Mary Fulbrook (ed.), *National Histories and European History*, London 1993, pp. 94–141.

*The conception of individuality as public existence*

Richard Sennett, *The Fall of Public Man*, Cambridge 1977. The elaboration of the rights of subjects, which I have not dealt with in the text, belongs in the same context. Cf. on this Ulrich K. Preuss, *Die Internalisierung des Subjekts. Zur Kritik der Funktionsweise des subjektiven Rechts*, Frankfurt 1979, Chapter 1. A new contribution to the thesis of individualisation has been offered by Wolfgang Weber. He criticises the dominant conception in 'Protestant historiography' that the Reformation promoted individualisation, maintaining that this was true only at the beginning. Once established, Protestant churches set themselves up as authorities and likewise strengthened the legitimacy of secular authorities. Cf. Wolfgang Weber, 'Rulers and Subjects: The Absolutist Making of the Individual', in Janet Coleman (ed.), *The Individual in Political Theory and Practice*, Oxford 1996, esp. pp. 197 ff.

*The results of bourgeois revolutions (p. 666)**The transformation of dynastic sovereignty into the sovereignty of the people*

Benno Teschke, *The Myth of 1648. Class, Geopolitics, and the Making of Modern International Relations*, London 2003, *passim*. For an example of the prevailing interpretation, Gérard Mairé, *Le Principe de la souveraineté. Histoires et fondements du pouvoir moderne*, Paris 1997.

*The permanent separation of the spheres of market and politics*

Ernst Forsthoff, *Der Staat der Industriegesellschaft*, Munich 1971.

*The liberation of the market and corruption*

Heide Gerstenberger, 'Öffentliche Staatsgewalt? Zum Verhältnis von Korruption und Staatsform', in *Prokla*, 124, 2001: 447–68.

*The term 'savages' as a depiction of the excluded*

I take this term from Albert Wirz, who uses it to challenge the fundamental difference between 'colonial states' and 'democratic citizen states', indicating that in the latter, peasants, workers and women were long viewed as 'savages', and refused some if not all civic rights. Cf. Albert Wirz, 'Körper, Kopf und Bauch. Zum Problem des kolonialen Staates im subsaharischen Afrika', in Wolfgang Reinhard and Elisabeth Müller-Luckner (eds.), *Verstaatlichung der Welt? Europäische Staatsmodelle und außereuropäische Machtprozesse*, Munich 1999, pp. 253–72, esp. p. 270.

*Thomas Jefferson's debate with the slave economy, described by him as a 'peculiar institution'*

Cf. Heide Gerstenberger, *Zur politischen Ökonomie der bürgerlichen Gesellschaft. Die Bedingungen ihrer Konstitution in den USA*, Frankfurt 1974, esp. Chapter 9.

*Women and their 'guardians'*

Kant discusses this in the text he wrote for the prize essay 'What Is Enlightenment?' Cf. Hans Reiss (ed.) *Kant: Political Writings*, Cambridge 1970, pp. 54–60. *The exclusion of women from bourgeois society*: Ursula Vogel, 'Patriarchale Herrschaft, bürgerliche Recht,

bürgerliche Utopie. Eigentumsrechte der Frauen in Deutschland und England', in Jürgen Kocka (ed.), *Bürgertum im 19. Jahrhundert*, Göttingen 1995, pp. 134–66. (Vogel's essay deals above all with property rights, but is central to the subject at issue here. Property was always the precondition for access to the public sphere of politics.) See also Ute Gerhard, 'Die Rechtstellung der Frau in der bürgerliche Gesellschaft des 19. Jahrhunderts. Frankreich und Deutschland im Vergleich', in Jürgen Kocka (ed.) 1995, pp. 167–96. *The significance of individualisation for the systematising of sex-specific privileges.* Karin Hausen, 'Öffentlichkeit und Privatheit – Gesellschaftspolitische Konstruktionen und die Geschichte der Geschlechterbeziehung', in *Journal für Geschichte*, 1, 1989: 16–25. (Hausen emphasises that the separation of spheres should be seen more as a matter of strategies than as a description of social reality.)

*Bourgeois revolutions, the capitalist mode of production and class relations* (p. 669)

*The development of the modern form of private property*

The distinction appears particularly clearly in comparison with forms of property that can be characterised as 'property as membership'. Cf. especially on this point the editors' introduction to John Brewer and Susan Staves, *Early Modern Conceptions of Property*, London/New York 1966, and the contribution by Margaret R. Somers, 'The "Misteries" of Property. Relationality, Rural Industrialization, and Community in Chartist Narratives of Political Rights', pp. 62–94.

*The free labour contract as the dominant form of legal constitution of class relations in capitalistically producing societies*

Yann Moulier Boutang has given an excellent historical and theoretical analysis in the context of an analysis of the modern slave economy and its changes: *De l'esclavage au salariat. Économie historique du salariat bridé*, Paris 1998. Cf. also Tom Brass and Marcel van den Linden (eds.), *Free and Unfree Labour. The Debate Continues*, Berne 1997.

*The significance of the development of national states for processes of capitalisation*

The great majority of works on the development of modern national states completely ignore this question. Cf. for example Leonard Tivey (ed.), *The Nation-State. The Formation of Modern Politics*, Oxford 1981. Exceptions include Anthony Giddens, *A Contemporary Critique of Historical Materialism*, London/Basingstoke 1981, esp. Chapter 8; idem, *The Nation-State and Violence*, Cambridge/Oxford 1985, esp. Chapters 1 & 4; Michael Mann, *The Sources of Social Power. Vol. 1: A History of Social Power from the Beginning to A.D. 1760*, Cambridge 1986, esp. conclusion; C.M. Vogler, *The Nation State: The Neglected Dimension of Class*, Aldershot, VT 1985, Chapter 1; John Hall and G. John Ikenberry, *The State*, Bristol 1989.

*The social form of bourgeois state power*

My discussion here refers to the so-called 'derivation debate' (meaning the derivation of the general form of capitalist state power from the class relationship), but I differ from this in stressing the need for a detailed historical analysis as distinct from a merely structural-logical 'derivation'. A good overview of the debate is provided by John Holloway and Sol Picciotto (eds.), *State and Capital: A German Debate*, London 1978, Introduction; also Bob Jessop, *The Capitalist State*, Oxford 1982. For particularly marked structural-logical positions, cf. Marxistische Gruppe, *Zur Oberfläche des Kapitals*, Cirkular 3, Erlangen 1973; also Bernhard Blanke, Ulrich Jürgens and Hans Kastendiek, 'Zur neueren marxistischen Diskussion über die Analyse von Form und Funktion des bürgerliche Staates', in *Prokla (Probleme des Klassenkampfes)*, 14/15, 1974: 51–104. A similarly structural-logical treatment is characteristic of authors working in the theoretical framework of Althusser and Poulantzas; cf. for example Stephen A. Resnick and Richard D. Wolff, *Knowledge and Class*, Chicago 1987, Chapter 5. For a provisional balance-sheet, Heide Gerstenberger, 'Zur Theorie des bürgerlichen Staates. Der gegenwärtige Stand der Debatte', in *Handbuch 5: Staat*, ed. Volkhard Brandest,

Jürgen Hoffmann, Ulrich Jürgens and Willi Semmler, Frankfurt/Cologne 1977, pp. 21–49.

*The discourse on 'classes'*

Eric J. Hobsbawm, 'Die englische middle class 1780–1920', in Jürgen Kocka (ed.), *Bürgertum im 19. Jahrhundert: Deutschland im europäischen Vergleich*, Göttingen 1995, pp. 85–112; Jürgen Kocka, 'Das europäische Muster und der deutsche Fall', in J. Kocka (ed.) 1995, pp. 9–75. On the significance of nation-state organisation for class interests, Carolyn M. Vogler 1985.

*From the 'citizen state' to the national capitalist intervention state (p. 671)*

*Thomas Jefferson and the theory of the state*

The quotation is from a letter that Jefferson wrote to James Madison from Paris on 3 January 1787; *The Papers of Thomas Jefferson*, ed. Edward Boyd et al., Princeton 1950 et seq., Volume 11, p. 92. The reference to Auguste Comte comes from *A Discourse on the Positive Spirit*, London 1903 [1844].

*The integration of noble families into the new ruling élite*

In addition to the literature mentioned in this part of the text, cf. the survey by Werner Mosse, 'Adel und Bürgertum im Europa des 19. Jahrhunderts. Eine vergleichende Betrachtung', in J. Kocka (ed.) 1995.

*The translation of social conflicts into racial terms*

Cf. R. Miles and A. Phizacklea, *Racism and Migrant Labour*, London 1982. A good overview of recent debates on the analysis of 'race' relations is given by John Solomons, 'Spielarten der marxistischen Konzepte von "Rasse", Klasse und Staat: eine kritische Betrachtung', in *Peripherie*, 24, 1986: 7–28.

*The exclusion of women from the 'political nation'*

U. Vogel 1985; U. Gerhard 1995.

*Criteria for the definition of democracies*

Melvin Small and David J. Singer, 'The Wages of War 1816–1965', in *A Statistical Handbook*, New York 1972, cited in the text after Ernst-Otto Czempel, 'Are Democracies Peaceful? Not Quite Yet', *Peace Research Institute Frankfurt, Reports*, 37, 1995; Michael M. Doyle, 'Liberalism and World Politics', in *American Political Science Review*, Volume 80, 4, 1986.

*The struggle for the achievement of universal political rights*

See the interesting survey by John Markoff, 'From Centre to Periphery and Back Again: Reflections on the Geography of Democratic Innovation', in Michael Hanagan and Charles Tilly (eds.), *Extending Citizenship, Reconfiguring States*, Lanham/Oxford 1999, pp. 222–46. Markoff shows that several civil rights in later constituted and politically weaker states were achieved earlier than in the core zones of bourgeois statehood. He ascribes this to the fact that the ruling political élites in these states had less ability to oppose such demands, yet they oriented themselves to the principles of successful states. It does not quite fit this picture that women's suffrage was achieved first of all on Pitcairn Island, where the Bounty mutineers settled in 1790 together with their Tahitian companions. When the British Captain Elliot landed on Pitcairn in 1838, he bequeathed to the inhabitants 'a few hasty regulations', including the decision that all free-born inhabitants over eighteen years of age, whether male or female, had the right to elect the magistrate. In 1856, the inhabitants of Pitcairn were resettled on Norfolk Island, and came under the administrative sway of the British governor there. He allowed this 'petticoat government', whilst hoping 'that this experiment will not be assumed as a precedent in favor of claims now made on the part of our "better halves"'

to have a say in the government of the country...’ (See Sir William Denison, *Varieties of Vice-Regal Life*, London 1870, Volume 1, pp. 411 ff.; cited after J. Markoff, p. 230.)

*The demand for political participation in a specific context of discourse*

See for example Gareth Stedman Jones, *Languages of Class*, Cambridge 1983, pp. 179–239.

*The context of small peasant property and the limits to agricultural productivity*

A.V. Chayanov’s analysis has become classic, *The Theory of Peasant Economy* (first published 1923, ed. Daniel Thorner, Basil Kerblay and R.E.F. Smith, Homewood 1966.

*The freeing of the market and the decline in previous forms of assistance*

Karl Polanyi, *The Great Transformation*, Boston 2000 [1944]. Cf. here Heide Gerstenberger, “Disembedding” and “Re-Embedding”? Oder: Wie aktuell ist Polanyis Analyse “The Great Transformation”, in Rudolf Hickel, Klaus Peter Kisker, Harald Mattfeld and Axel Troost (eds.), *Politik des Kapitals – heute. Festschrift zum 60. Geburtstag von Jörg Hufschmidt*, Hamburg 2000, pp. 148–58.

*The ‘nation’ as integrative metaphor*

Recent discussion about the ‘nation’ and nationalism has been given a new impulse by a work more often cited than read: Benedict Anderson, *Imagined Communities. Reflections on the Origin and Spread of Nationalism*, London 1983. Reference is made in the text to Ernst Gellner, *Nations and Nationalism*, Oxford 1983; Eric J. Hobsbawm, *Nations and Nationalism since 1780*, Cambridge 1990; Niklas Luhmann, *Die Gesellschaft der Gesellschaft*, Frankfurt 1997; Étienne Balibar and Immanuel Wallerstein, *Rasse, Klasse, Nation. Ambivalente Identitäten*, Hamburg 1990; Ulrich Bielefeld, *Nation und Gesellschaft. Selbstthematisierungen in Deutschland und Frankreich*, Hamburg 2003; Eugen Weber, *Peasants into Frenchmen. The Modernization of Rural France 1870–1914*, 2nd edn., London 1979. Also Dirk Richter, *Nation als Form*, Opladen 1996. On the nation as state creation, see also Pierre Rosanvallon, *L’État en France de 1789 à nos jours*, Paris 1990, Chapter 2.2.

*The ‘invention of tradition’ and the use of this term as an analytical concept*

Eric Hobsbawm and Terence Ranger (eds.), *The Invention of Tradition*, Cambridge 1983, esp. Introduction.

*The historical development of the social state*

I refer in the text to François Ewald, *L’État providence*, Paris 1986. I shall not cite the very copious literature on this subject that has since developed. There are a number of distinct key points in this debate: the rise of notions of reform and the role of intellectuals in this process; the social state as a functional necessity of industrial societies; social policy as instrument of social control; different models of social state. I should however mention Ian Culpitt, since he discusses a question raised by F. Ewald and relevant to my argument in the text: ‘The Language of Welfare: Why Care for the Stranger?’ is the title of the second chapter of his book *Welfare and Citizenship. Beyond the Crisis of the Welfare State?*, London 1992.

*‘Governmentality’ as an analytical concept*

The term was proposed by Michel Foucault to characterise a specific historical form of ‘government’. In this context he also speaks of the ‘statification’ of social practices (p. 65), and again of the ‘governmentalising of the state’ (p. 69). These references are taken from texts published in Ulrich Bröckling, Susanne Krasmann and Thomas Lenke (eds.), *Gouvernementalität der Gegenwart. Studien zur Ökonomisierung des Sozialen*, Frankfurt 2000. See also the postscript to Foucault’s 1976 lecture course, where he discusses, especially on 17 March 1976, the creation of subjects by the state, and the development of practices that he groups under the term of ‘bio-power’; Michel Foucault, *Il faut défendre la société*, Cours au Collège de France 1975–1976, Paris 1997.

*The separation of analysis of the political system from criteria of democracy*  
David Easton, *A Systems Analysis of Political Life*, New York 1965.

*Bourgeois and other capitalist states* (p. 679)

*The few bits of the Earth that do not form part of the territory of a nation-state*  
Monique Chémillier-Grendeau, *La Souveraineté sur les archipels Paracels et Spratleys*, Paris 1996. Antarctica has been governed since 1959 by a volatile system of treaties between states that have made territorial claims: initially thirteen, now forty-one. Cf. M. Anderson 1977, Chapter 6.

*The global diffusion of the nation-state form*

Cf. for example the contributions on particular developments and general summary in W. Reinhard and E. Müller-Luckner (eds.) 1999; also W. Reinhard 1999, Chapter 6. A very critical stance on recent developments is taken by Rolf Knieper, *Weltmarkt, Wirtschaftsrecht und Nationalstaat*, Frankfurt 1976. In the context of a systematic theoretical analysis, Jean-François Bayart maintains that the state is 'the product of globalisation', referring above all to processes of colonisation: *Le Gouvernement du monde. Une critique politique de la globalisation*, Paris 2004, Chapter 2.

*The on-going structuring of developments by the historical form in which the 'modern nation-state' was constructed*

J. Barrington Moore, *The Social Origins of Dictatorship and Democracy. Lord and Peasant in the Making of the Modern World*, Boston 1967; Reinhard Bendix, *Nation-Building and Citizenship*, New York 1964; idem, *Kings or People*, Berkeley 1978; Henri Lefebvre, *De l'État*, Volume 3, Paris 1977. Lefebvre does not explicitly thematise national differences, but he does stress the perpetuation of inherited structures by the bourgeois class after this has taken possession of the ruling apparatus. Since this work was first published, there has been very little discussion of the historically marked differences in state forms, but two strands of debate that have become prominent will be mentioned here. These topics are the cultural history of modern state power, and the analysis of postcolonial states.

*The cultural formation of modern (bourgeois) statehood*

Cf. the contributions in Ronald G. Asch and Dagmar Freist (eds.), *Staatsbildung als kultureller Prozeß. Strukturwandel und Legitimation von Herrschaft in der frühen Neuzeit*, Vienna 2005. Particularly relevant to the argument pursued in the present book is the contribution by François-Joseph Ruggiu, 'Die Gemeinschaft dienen? Politisches Engagement in englischen und französischen Provinzstädten im 18. Jahrhundert' (pp. 91–116), in which the author argues that though local officials benefited economically from their positions, they also participated in a symbolic order. See also the contribution by Michael Braddick, who suggests that institutions too should be understood as 'imagined': 'State Formation and Political Culture in Elizabethan and Stuart England. Micro-Histories and Macro-Historical Change' (pp. 69–90). Cultural history is used in a bolder style in Philip Corrigan and Derek Sayer, *The Great Arch. English State Formation as Cultural Revolution*, Oxford 1985.

*The utopian element of bourgeois revolutions (which I refer to in the text as their 'promise')*

Hans-Ulrich Wehler, 'Die Zielutopie der "Bürgerlichen Gesellschaft" und die "Zivilgesellschaft" heute', in Peter Mundgreen (ed.), *Sozial- und Kulturgeschichte des Bürgertums*, Göttingen 2000, pp. 85–92.

*The structurally different constitution of state power in capitalist states that did not arise from the revolutionising of ancien-régime societies*

When I published the first edition of this book, those authors concerned with the subject focused on identifying agreements and differences in economic functions of the

state. Cf. Pierre-Philippe Rey, *Les Alliances de classes*, Paris 1978. (Rey sees the elders who appropriated surplus product as the structural equivalent of the landowners of the *ancien régime*.) Also the contributions by Wolfgang Hein, Konrad Stenzel, Sherry Girling and Gerd Junne in *Kapitalistate*, 2, 1973: 31–52; Ali Kazancigil, 'Paradigms of Modern State Formation in the Periphery', and Marcos Kaplan, 'The Theory of the State and the Third World', in A. Kazancigil (ed.), *The State in Global Perspective*, Aldershot 1986. Great progress has since been made in this field. Cf. by way of example Patrick Chabal and Jean-Pascal Daloz, *Africa Works. Disorder as Political Instrument*, Oxford 1999; Reinhard Kößler, *Postkoloniale Staaten. Elemente eines Bezugsrahmens*, Hamburg 1994; Wolfgang Hein, *Unterentwicklung, Krise der Peripherie*, Opladen 1988, Chapter 4; David Potter, 'The Autonomy of Third World States', in Antony G. McGrew, Paul G. Lewis et al., *Global Politics. Globalization and the Nation State*, Cambridge 1992, Chapter 11; William Reno, 'La Privatisation de la souveraineté et la survie des états faibles', in Béatrice Hibou (ed.), *La Privatisation des états*, Paris 1999, pp. 133–62.

*Bourgeois state power in the age of globalisation* (p. 681)

*The development of international law*

Cf. in particular Philippe Sands, *Lawless World. America and the Making and Breaking of Global Rules*, London 2005, esp. Chapter 1: 'International Law: A Short and Recent History', Chapter 2: 'Pinochet in London'.

*The concept and practice of 'global governance'*

James N. Rosenau and Ernst-Otto Czempiel (eds.), *Governance Without Government: Order and Change in World Politics*, Cambridge 1992; Michael Zürn, *Regieren jenseits des Nationalstaates. Globalisierung und Denationalisierung als Chance*, Frankfurt 1988. For a critical survey of the different concepts and practice of 'global governance', Ulrich Brand, Achim Brunnengräber, Lutz Schrader, Christian Stock and Peter Wahl, *Global Governance. Alternativen zur neoliberalen Globalisierung*, Münster 2000. Participation in non-governmental organisations is often seen as a sufficient democratic element. For a critique of this, cf. Ulrich Brand, Alex Demirovic, Christoph Görg and Joachim Hirsch (eds.), *Nichtregierungsorganisationen in der Transformation des Staates*, Münster 2001.

*Economic globalisation*

I confine myself here to a single reference: Jörg Huffschnid, *Politische Ökonomie der Finanzmärkte*, 2nd edn., Hamburg 2002.

*The term 'competitor state' and analysis of the development it refers to*

Joachim Hirsch, *Vom Sicherheitsstaat zum nationalen Wettbewerbsstaat*, Berlin 1998.

*The development of 'offshore' centres and their significance for the understanding of statehood*

Mark P. Hampton, 'Creating Spaces. The Political Economy of Island Offshore Finance Centres: The Case of Jersey', in *Geographische Zeitschrift*, 83, 1: 103–13; Sol Picciotto, 'The State as Legal Fiction', in Mark P. Hampton and J.P. Abbott (eds.), *Offshore Finance Centres and Tax Havens. The Rise of Global Capital*, Houndsmill 1999, pp. 43–79; Heide Gerstenberger and Ulrich Welke, 'Wie nationale Souveränität zu Märkte getragen wird', in *Prokla. Zeitschrift für kritische Sozialwissenschaft*, 35th year, 2005, 2: 225–46.

*Labour migration*

For a good summary of recent works (along with a trenchant critique of neoclassical analytical concepts), cf. Douglas S. Massey, Jorge Durand and Nolan J. Malone, *Beyond Smoke and Mirrors. Mexican Immigration in an Era of Economic Integration*, New York 2002. Of the large number of works on the history of the global use of labour, cf. in particular Eric J. Wolf, *Europe and the Peoples Without History*, Berkeley 1982; Patrick Manning, *Slave Trades, 1500–1800. Globalization of Forced Labour*, Aldershot 1996.

*The basic rights of labour elaborated by the International Labour Organisation and accepted in 1998*

Eva Senghaas-Knobloch, Jan Dirks and Andrea Liese, *Internationale Arbeitsregulierung in Zeiten der Globalisierung. Politisch-organisatorisches Lernen in der Internationalen Arbeitsorganisation (IAO)*, Münster 2003, Part 1.

*Analysis of political developments displaying a tendency to the retrospective idealisation of 'citizen states'*

Johannes Agnoli, *Die Transformation der Demokratie*, Frankfurt 1974; Jürgen Habermas, *The Structural Transformation of the Public Sphere. An Inquiry into a Category of Bourgeois Society*, Cambridge, MA 1989 [1962].

Not discussed in the text, but relevant to its subject, are theoretical conceptions for analysing the supranational space, such as the question whether it is meaningful to speak of a new imperialism, and the debate on the concept of 'empire'. For a critical view on some aspects of the debate, see Sonja Buckel, 'Global "Non-State" – Überlegungen für eine materialistische Theorie des transnationalen Rechts', in Sonja Buckel, Regina-Maria Dackweiler and Ronald Noppe (eds.), *Formen und Felder politischer Intervention*, Münster 2003, pp. 50–68; also Daniel Bensaïd, *Le nouvel internationalisme. Contre les guerres impériales et la privatisation du monde*, Paris 2003. Likewise not discussed are processes of partial privatisation of both public goods and state means of compulsion. See for example Béatrice Hibou (ed.) 1999, esp. Chapters 1 & 10; Peter Warren Singer, *Corporate Warriors. The Rise of the Privatized Military Industry*, Ithaca/London 2003.

*The debate on prospects for a democratisation of international political relations*

I do not discuss this debate in the text, but offer two references here: Danielle Archibugi and David Held (eds.), *Cosmopolitan Democracy. An Agenda for a New World Order*, Cambridge 1995; Christoph Görg and Markus Wissen, 'National dominierte globale Herrschaft. Zum Verhältnis von Uni- und Multilateralismus in der "Neuen Weltordnung"', in *Prokla. Zeitschrift für kritische Sozialwissenschaft*, 133, 2003: 625–44.

*The development of international law, which is more than the sum of treaties*

Monique Chémillier-Gendreau, *Humanité et souverainetés. Essai sur la fonction du droit international*, Paris 1995, pp. 364–75 & passim. This author develops the thesis that the world today is chiefly 'governed' by way of treaties, i.e. instrumental legal connections that make power relations calculable for a certain time. For an analysis of the actual significance of treaties, see in particular Hugh Collins, *Regulating Contracts*, Oxford 1999, esp. Chapters 13 & 14.





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